



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

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Miller Building
Des Moines, IA 50319
Telephone: (515)281-6766

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

Schedule for Rule Making 2006

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 30 '05	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06
Jan. 13	Feb. 1	Feb. 21	Mar. 8	Mar. 10	Mar. 29	May 3	July 31
Jan. 27	Feb. 15	Mar. 7	Mar. 22	Mar. 24	Apr. 12	May 17	Aug. 14
Feb. 10	Mar. 1	Mar. 21	Apr. 5	Apr. 7	Apr. 26	May 31	Aug. 28
Feb. 24	Mar. 15	Apr. 4	Apr. 19	Apr. 21	May 10	June 14	Sept. 11
Mar. 10	Mar. 29	Apr. 18	May 3	May 5	May 24	June 28	Sept. 25
Mar. 24	Apr. 12	May 2	May 17	***May 17***	June 7	July 12	Oct. 9
Apr. 7	Apr. 26	May 16	May 31	June 2	June 21	July 26	Oct. 23
Apr. 21	May 10	May 30	June 14	June 16	July 5	Aug. 9	Nov. 6
May 5	May 24	June 13	June 28	***June 28***	July 19	Aug. 23	Nov. 20
May 17	June 7	June 27	July 12	July 14	Aug. 2	Sept. 6	Dec. 4
June 2	June 21	July 11	July 26	July 28	Aug. 16	Sept. 20	Dec. 18
June 16	July 5	July 25	Aug. 9	Aug. 11	Aug. 30	Oct. 4	Jan. 1 '07
June 28	July 19	Aug. 8	Aug. 23	***Aug. 23***	Sept. 13	Oct. 18	Jan. 15 '07
July 14	Aug. 2	Aug. 22	Sept. 6	Sept. 8	Sept. 27	Nov. 1	Jan. 29 '07
July 28	Aug. 16	Sept. 5	Sept. 20	Sept. 22	Oct. 11	Nov. 15	Feb. 12 '07
Aug. 11	Aug. 30	Sept. 19	Oct. 4	Oct. 6	Oct. 25	Nov. 29	Feb. 26 '07
Aug. 23	Sept. 13	Oct. 3	Oct. 18	Oct. 20	Nov. 8	Dec. 13	Mar. 12 '07
Sept. 8	Sept. 27	Oct. 17	Nov. 1	Nov. 3	Nov. 22	Dec. 27	Mar. 26 '07
Sept. 22	Oct. 11	Oct. 31	Nov. 15	***Nov. 15***	Dec. 6	Jan. 10 '07	Apr. 9 '07
Oct. 6	Oct. 25	Nov. 14	Nov. 29	Dec. 1	Dec. 20	Jan. 24 '07	Apr. 23 '07
Oct. 20	Nov. 8	Nov. 28	Dec. 13	***Dec. 13***	Jan. 3 '07	Feb. 7 '07	May 7 '07
Nov. 3	Nov. 22	Dec. 12	Dec. 27	***Dec. 27***	Jan. 17 '07	Feb. 21 '07	May 21 '07
Nov. 15	Dec. 6	Dec. 26	Jan. 10 '07	Jan. 12 '07	Jan. 31 '07	Mar. 7 '07	June 4 '07
Dec. 1	Dec. 20	Jan. 9 '07	Jan. 24 '07	Jan. 26 '07	Feb. 14 '07	Mar. 21 '07	June 18 '07
Dec. 13	Jan. 3 '07	Jan. 23 '07	Feb. 7 '07	Feb. 9 '07	Feb. 28 '07	Apr. 4 '07	July 2 '07
Dec. 27	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
16	Friday, January 13, 2006	February 1, 2006
17	Friday, January 27, 2006	February 15, 2006
18	Friday, February 10, 2006	March 1, 2006

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. West, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
CIVIL RIGHTS COMMISSION[161]		
Mailing documents to or from commission, 2.1(6), 3.4 to 3.6, 3.10, 3.12 to 3.14, 3.16, 9.5(4) IAB 1/4/06 ARC 4790B	First Floor Grimes State Office Bldg. Des Moines, Iowa	January 26, 2006 3 to 5 p.m.
EDUCATION DEPARTMENT[281]		
Extracurricular interscholastic competition, 36.1, 36.4, 36.14 to 36.16 IAB 12/7/05 ARC 4731B (ICN Network)	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 11 and 26, 2006 1 p.m.
	Keystone AEA 1 1400 Second St. NW Elkader, Iowa	January 11 and 26, 2006 1 p.m.
	Room 106, Charles City Center North Iowa Area Comm. College 200 Harwood Dr. Charles City, Iowa	January 11 and 26, 2006 1 p.m.
	Room 22, Library Bldg. Iowa Lakes Community College 300 S. 18th St. Estherville, Iowa	January 11 and 26, 2006 1 p.m.
	Room 13, Attendance Center. Iowa Lakes Community College 2111 Hwy. 169 North Algona, Iowa	January 11 and 26, 2006 1 p.m.
	Fiber Optic Rm. 118, Attendance Ctr. Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	January 11 and 26, 2006 1 p.m.
	Room 818, Smith Wellness Center Iowa Lakes Community College 3200 College Dr. Emmetsburg, Iowa	January 11 and 26, 2006 1 p.m.
	Reg Johnson Hall 105 Ellsworth Community College 1100 College Ave. Iowa Falls, Iowa	January 11 and 26, 2006 1 p.m.
	Room 806, Continuing Ed. Center Iowa Valley Community College 3702 S. Center St. Marshalltown, Iowa	January 11 and 26, 2006 1 p.m.
	Room 110, Tama Hall Hawkeye Comm. College 1501 E. Orange Rd. Waterloo, Iowa	January 11 and 26, 2006 1 p.m.

EDUCATION DEPARTMENT[281] (Cont'd)
(ICN Network)

Room N147, Lagomarcino Hall Iowa State University Ames, Iowa	January 11 and 26, 2006 1 p.m.
Room 105, Larson Hall Clinton Comm. College 1000 Lincoln Blvd. Clinton, Iowa	January 11 and 26, 2006 1 p.m.
Room 60, Muscatine Comm. College 152 Colorado St. Muscatine, Iowa	January 11 and 26, 2006 1 p.m.
Room 210, Scott Comm. College 500 Belmont Rd. Bettendorf, Iowa	January 11 and 26, 2006 1 p.m.
Room 116, Red Oak Center Southwestern Comm. College 2300 N. Fourth St. Red Oak, Iowa	January 11 and 26, 2006 1 p.m.
Room 2, Conference Center NE Iowa Comm. College 10250 Sundown Rd. Peosta, Iowa	January 11 and 26, 2006 1 p.m.
Room 128, Careers Bldg., NIACC 500 College Dr. Mason City, Iowa	January 11 and 26, 2006 1 p.m.
Room 203B, Linn Hall Kirkwood Community College 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	January 11 and 26, 2006 1 p.m.
Room 100, Preus Bldg. Luther College 700 College Dr. Decorah, Iowa	January 11 and 26, 2006 1 p.m.
Lib. 204, Prairie Lakes AEA 8 330 Avenue M Fort Dodge, Iowa	January 11 and 26, 2006 1 p.m.
Turner Room, Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	January 11 and 26, 2006 1 p.m.
Southern Prairie AEA 15 2814 N. Court St. Ottumwa, Iowa	January 11 and 26, 2006 1 p.m.
Looft Hall, Iowa Western Comm. Coll. 2700 College Rd. Council Bluffs, Iowa	January 11 and 26, 2006 1 p.m.
Iowa City Comm. School Dist. 509 S. Dubuque St. Iowa City, Iowa	January 11 and 26, 2006 1 p.m.

EDUCATION DEPARTMENT[281] (Cont'd)
(ICN Network)

Room CV15B, Indian Hills Comm. Coll. North First St. Centerville, Iowa	January 11 and 26, 2006 1 p.m.
Room 410, Bldg. D Northwest Iowa Community. College 603 West Park St. Sheldon, Iowa	January 11 and 26, 2006 1 p.m.
Iowa Lakes Community College 2008 Hill Ave. Spirit Lake, Iowa	January 11 and 26, 2006 1 p.m.
AG Room 331 Southeastern Community College 1500 W. Agency West Burlington, Iowa	January 11 and 26, 2006 1 p.m.
Room 7B, Information Tech. Center Buena Vista University 610 W. Fourth St. Storm Lake, Iowa	January 11 and 26, 2006 1 p.m.
AEA 267 3712 Cedar Heights Dr. Cedar Falls, Iowa	January 11 and 26, 2006 1 p.m.

ELDER AFFAIRS DEPARTMENT[321]

Case management programs for frail elders, ch 21 IAB 1/4/06 ARC 4806B (See also ARC 4805B herein) (ICN Network)	Dept. of Public Safety Wallace State Office Bldg. Des Moines, Iowa	February 3, 2006 1 p.m.
	Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	February 3, 2006 1 p.m.
	Iowa City Community Schools 509 S. Dubuque St. Iowa City, Iowa	February 3, 2006 1 p.m.
	Bldg. 4, Indian Hills Comm. College 651 Indian Hills Dr. Ottumwa, Iowa	February 3, 2006 1 p.m.
	High School 800 Third St. Spencer, Iowa	February 3, 2006 1 p.m.
	Schindler 130A, Univ. of Northern Iowa Hudson Rd. and 23rd St. Cedar Falls, Iowa	February 3, 2006 1 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Water quality loan programs, 40.2, ch 44, 90.1 to 90.3, 91.1, 91.2, 91.8 to 91.11, chs 92, 93 IAB 12/21/05 ARC 4770B	401 SW Seventh St. Des Moines, Iowa	January 11, 2006 10 a.m.
Animal feeding operations— designated wetlands, 65.1 IAB 12/21/05 ARC 4771B	Public Library 702 16th St. Spirit Lake, Iowa	January 19, 2006 6:30 p.m.
	Lime Creek Nature Center 3501 Lime Creek Rd. Mason City, Iowa	January 25, 2006 6:30 p.m.
	Public Library 129 N. Court Ottumwa, Iowa	January 26, 2006 6 p.m.
	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 31, 2006 2:30 p.m.

HUMAN SERVICES DEPARTMENT[441]

Accreditation of providers of services to persons with mental illness, mental retardation, and developmental disabilities, 24.1, 24.3 to 24.7 IAB 12/21/05 ARC 4751B	Conference Room 104 City View Plaza 1200 University Ave. Des Moines, Iowa	January 11, 2006 8 a.m.
	Second Floor Conference Room Story County Human Services Bldg. 126 S. Kellogg St. Ames, Iowa	January 11, 2006 8:30 a.m.
	Rooms A and B, First Floor Trosper-Hoyt Bldg. 822 Douglas St. Sioux City, Iowa	January 11, 2006 9 a.m.
	Sixth Floor Conference Room Scott County Administrative Center 428 Western Ave. Davenport, Iowa	January 11, 2006 10 a.m.
	Third Floor Conference Room Nesler Centre 799 Main St. Dubuque, Iowa	January 12, 2006 9 a.m.
	Room 220, Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	January 12, 2006 10 a.m.
	ICN Room Pottawattamie County DHS Office 417 E. Kaneshville Blvd. Council Bluffs, Iowa	January 12, 2006 1 p.m.

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

Large Conference Room Wapello County DHS 120 E. Main St. Ottumwa, Iowa	January 12, 2006 1 p.m.
Fifth Floor Conference Room Iowa Bldg. 411 Third St. SE Cedar Rapids, Iowa	January 13, 2006 1 p.m.

INSURANCE DIVISION[191]

Electronic delivery of accident and health group insurance certificates, 40.25 IAB 1/4/06 ARC 4778B	330 Maple St. Des Moines, Iowa	January 25, 2006 10 a.m.
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LABOR SERVICES DIVISION[875]

OSHA regulations—adoption by reference, 10.20 IAB 12/21/05 ARC 4774B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	January 13, 2006 9 a.m.
Elevator safety standards, 71.2(2), 72.1, 73.8, 76.4(1), 76.7 IAB 1/4/06 ARC 4779B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	January 25, 2006 1:30 p.m. (If requested)

LOTTERY AUTHORITY, IOWA[531]

Retailer license; monitor vending machines, 1.3, 12.1(1), 14.9, 14.21(4) IAB 12/21/05 ARC 4732B	2323 Grand Ave. Des Moines, Iowa	January 10, 2006 10 a.m. (If requested)
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NATURAL RESOURCE COMMISSION[571]

Nighttime speed limit, Dickinson County; zoning of Mississippi River, Mud Lake, Dubuque County, 40.52, 40.53 IAB 1/4/06 ARC 4794B	City Hall 156 Hwy. 71 Arnolds Park, Iowa	January 26, 2006 7 p.m.
	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 24, 2006 11 a.m.
Nonresident deer hunting, 94.1, 94.6 to 94.8 IAB 12/7/05 ARC 4715B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 11, 2006 10:30 a.m.
Nuisance wildlife control, ch 114 IAB 12/7/05 ARC 4716B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 11, 2006 11:30 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Marital and family therapists and mental health counselors, 31.12 IAB 1/4/06 ARC 4781B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 8:30 to 9 a.m.
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PROFESSIONAL LICENSURE DIVISION[645] (Cont'd)

Marital and family therapists and mental health counselors, 33.5 IAB 1/4/06 ARC 4783B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 8:30 to 9 a.m.
Dietitians—discipline, 83.5 IAB 1/4/06 ARC 4777B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 10 to 10:30 a.m.
Mortuary science examiners, 100.7(2), 100.10, 103.7 IAB 1/4/06 ARC 4789B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 9:30 to 10 a.m.
Massage therapists, 131.2(7) IAB 1/4/06 ARC 4796B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 9 to 9:30 a.m.
Massage therapists, 131.6, 134.6 IAB 1/4/06 ARC 4785B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 9 to 9:30 a.m.
Physical therapists—discipline, 202.5 IAB 12/21/05 ARC 4734B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 10, 2006 9 to 9:30 a.m.
Occupational therapists—discipline, 209.5 IAB 12/21/05 ARC 4733B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 10, 2006 9 to 9:30 a.m.
Respiratory care practitioners— discipline, 263.5 IAB 12/21/05 ARC 4739B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 10, 2006 9:30 to 10 a.m.
Social workers, 280.3(12), 280.4(6), 280.7 IAB 1/4/06 ARC 4786B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 10:30 to 11 a.m.
Interpreters for the hearing impaired— continuing education, adopt ch 362 IAB 12/21/05 ARC 4744B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 10, 2006 1 to 1:30 p.m.
Interpreters for the hearing impaired— discipline, adopt ch 363 IAB 12/21/05 ARC 4745B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 10, 2006 1 to 1:30 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Certification of automatic fire extinguishing system contractors, adopt ch 275 IAB 12/21/05 ARC 4753B	Fire Marshal Division Conference Rm. Suite N 401 SW Seventh St. Des Moines, Iowa	January 18, 2006 10 a.m.
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SCHOOL BUDGET REVIEW COMMITTEE[289]

Use of generally accepted accounting principles, 6.5 IAB 12/7/05 ARC 4723B (ICN Network)	Second Floor ICN Room Grimes State Office Bldg. Des Moines, Iowa	January 5, 2006 1 p.m.
	Keystone AEA 1 1400 Second St. NW Elkader, Iowa	January 5, 2006 1 p.m.

SCHOOL BUDGET REVIEW COMMITTEE[289] (Cont'd)
(ICN Network)

AEA 4 1382 Fourth Ave. NE Sioux Center, Iowa	January 5, 2006 1 p.m.
Room 101, Emerson Bldg. 316 N. Third St. Eagle Grove, Iowa	January 5, 2006 1 p.m.
Looft Hall – 1 Iowa Western Comm. Coll. 2700 College Rd. Council Bluffs, Iowa	January 5, 2006 1 p.m.
Turner Room, Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	January 5, 2006 1 p.m.
Prairie Lakes AEA 8 Hwy. 18 and Second St. Cylinder, Iowa	January 5, 2006 1 p.m.
State Room, AEA 267 91848 265th St. Clear Lake, Iowa	January 5, 2006 1 p.m.
Heartland AEA 11 6500 Corporate Dr. Johnston, Iowa	January 5, 2006 1 p.m.
High School 421 Terrace Dr. Burlington, Iowa	January 5, 2006 1 p.m.
Indian Hills Community Coll., #3 651 Indian Hills Dr. Ottumwa, Iowa	January 5, 2006 1 p.m.
R.M. Wolfe Education Center Iowa Valley Community College 3405 S. Center St. Marshalltown, Iowa	January 5, 2006 1 p.m.
Louisa Room, Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa	January 5, 2006 1 p.m.
Room 223, West High School 2001 Casselman Sioux City, Iowa	January 5, 2006 1 p.m.
Room 32B Kirkwood Community College 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	January 5, 2006 1 p.m.

SOIL CONSERVATION DIVISION[27]

Conservation practices revolving loan fund, amendments to ch 11 IAB 12/7/05 ARC 4728B (See also ARC 4729B)	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 10, 2006 2 p.m.
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TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Organization, 1.5, 5.2(1), 5.4, 17.3 IAB 12/21/05 ARC 4754B	Thompson Conference Room Bldg. W-4, Camp Dodge Johnston, Iowa	January 10, 2006 1 p.m.
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TRANSPORTATION DEPARTMENT[761]

Acquisition and relocation assistance manual—adoption by reference, 111.1 IAB 1/4/06 ARC 4775B	First Floor South Conference Room Administration Bldg. 800 Lincoln Way Ames, Iowa	January 26, 2006 10 a.m. (If requested)
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WORKFORCE DEVELOPMENT DEPARTMENT[871]

Mandatory and prohibited successorships; overpayments; construction employers, 23.32, 23.43(3), 23.82 IAB 12/21/05 ARC 4746B	1000 E. Grand Ave. Des Moines, Iowa	January 10, 2006 9:30 a.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Division[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Grow Iowa Values Board[264]
 Iowa Finance Authority[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 GENERAL SERVICES DEPARTMENT[401]
 HUMAN INVESTMENT COUNCIL[417]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
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 Status of African-Americans, Division on the[434]
 Status of Women Division[435]

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INFORMATION TECHNOLOGY DEPARTMENT[471]
INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Homeland Security and Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
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 Medical Examiners Board[653]
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PUBLIC SAFETY DEPARTMENT[661]
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REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
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VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 4790B

CIVIL RIGHTS COMMISSION[161]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 216.5(10) and 17A.3, the Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 2, "General Definitions," Chapter 3, "Complaint Process," and Chapter 9, "Discrimination in Housing," Iowa Administrative Code.

The rules in these chapters illustrate various methods and give instructions for mailing documents to or from the Civil Rights Commission. These amendments remove certain limitations requiring documents to be mailed by certified mail, and provide the option of using cost-efficient alternatives by the Commission.

Any interested person may make written suggestions or comments on these proposed amendments prior to January 25, 2006. Such written materials should be directed to Ralph Rosenberg, Executive Director, Iowa Civil Rights Commission, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-1004; fax (515)242-5840. Persons who wish to convey their views orally should contact the Civil Rights Commission at (515)281-4121 or 1-800-457-4416, or at the Civil Rights Commission offices on the first floor of the Grimes State Office Building.

Also, there will be a public hearing on January 26, 2006, from 3 to 5 p.m. in the offices of the Iowa Civil Rights Commission, located on the First Floor, Grimes State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Civil Rights Commission and advise of their specific needs.

Following the completion of this Notice process, it is the intention of the Commission to adopt these amendments on an emergency basis.

These amendments are intended to implement Iowa Code chapter 216 as amended by 2005 Iowa Acts, chapter 23.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 2.1(6) as follows:

2.1(6) Except as provided in paragraph "b," the term "issuance" shall mean mailing by *regular mail or, when required*, U.S. certified mail, a document or letter indicating a decision or other administrative action of the commission. ~~The~~ *When certified mail is required*, the date of issuance of a decision or an administrative action of the commission shall be the date the commission mails by U.S. certified mail a document or letter indicating the decision or action. *When mailing is by regular mail*, the date of mailing is presumed to

be the date on the cover letter accompanying the administrative action or decision unless the date is shown to be in error.

a. Except as provided in paragraph "b," the verb "issue" shall mean to mail by *regular mail or, when required*, by certified mail, a document or letter indicating a decision or other administrative action of the commission. ~~The~~ *When certified mail is required*, the date an administrative action or decision is "issued" shall be the date the commission mails by U.S. certified mail a document or letter indicating the *administrative* decision or action. *When mailing is by regular mail*, the date of mailing is presumed to be the date on the cover letter accompanying the document or letter indicating the *administrative* decision or action, unless this date is shown to be in error.

b. When used to refer to a decision to administratively close a case, the term "issuance" and the verb "issue" can mean either the mailing of the document indicating administrative closure by regular mail or the mailing of that document by certified mail. The date an administrative closure is issued is the date the administrative closure is mailed to the complainant. ~~Where~~ *When mailing is by regular mail*, the date of mailing is presumed to be the date on the cover letter accompanying the administrative closure unless this date is shown to be in error. *When certified mail is required*, the date an administrative action or decision is "issued" shall be the date the commission mails by U.S. certified mail a document or letter indicating the decision or action.

c. *When local mail is permissible*, the date of mailing is presumed to be the date on the cover letter.

When used to refer to a subpoena, the term "issuance" and the verb "issue" shall each mean the signing of the subpoena by the issuing authority. The date a subpoena becomes effective is the date service is completed.

ITEM 2. Amend subrule 3.4(3) as follows:

3.4(3) Technical defects in complaint. Notwithstanding the provisions of subrule 3.4(2), a complaint is sufficient when the commission receives from the ~~person making the complaint~~ *complainant* a written statement sufficiently precise to identify the parties and to describe generally the action or practices complained of. A complaint may be amended to cure technical defects or omissions, including failure to verify the complaint. Such amendments will relate back to the date the complaint was filed.

ITEM 3. Amend subrule 3.5(3) as follows:

3.5(3) By facsimile transmission (fax). By transmitting via facsimile transmission a copy of the document to the fax number set forth in 161—paragraph 1.1(1)"b."

A document filed by fax is presumed to be an accurate reproduction of the original. If a document filed by fax is illegible, a legible copy ~~may~~ *shall* be substituted and the date of filing shall be the date the illegible copy was received.

ITEM 4. Amend subrule **3.5(5)**, paragraph "c," as follows:

c. After the transmission, *promptly* mail to the commission the original "hard copy" of the document along with the cover sheet which preceded *the* transmission (or a copy of the transmission report).

ITEM 5. Amend subrule 3.5(6) as follows:

3.5(6) Charge for facsimile transmissions in excess of five pages. For facsimile transmissions in excess of five pages, the commission will bill the sender a reasonable fee ~~per page~~ for each page in excess of five pages.

CIVIL RIGHTS COMMISSION[161](cont'd)

ITEM 6. Amend subrule **3.5(7)**, paragraph “c,” as follows:

c. Filing by facsimile transmission. If the document, including a complaint of discrimination, is filed by facsimile transmission as set forth in subrule 3.5(3), the date of the filing is the date the document is received by the commission as shown on the face of the facsimile. ~~Provided, however, that if~~ *However, if* a transmission is received ~~outside after~~ the office hours set forth in 161—paragraph 1.1(1)“b,” the date of filing is the next day ~~that the commission offices are open for business.~~ Transmissions received prior to office hours on a regular business day of the commission are *deemed* filed on that day.

ITEM 7. Amend subrule **3.5(8)** by amending paragraph “e” and adopting new paragraph “f” as follows:

e. The date disclosed on a certification in substantially the following form: “The undersigned certifies under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing) I mailed copies of (describe document) addressed to the Iowa Civil Rights Commission, ~~211 E. Maple, 2nd Floor, Des Moines, Iowa 50319~~ *400 E. 14th, Des Moines, Iowa 50319*, and to the names and addresses of the persons listed below by depositing a copy thereof (in a United States post office mailbox with correct postage properly affixed) or (state interoffice mail) (Date) (Signature).”

f. *The date listed on the cover letter which was sent by regular mail.*

ITEM 8. Amend subrule 3.5(9) as follows:

3.5(9) Conflict among proofs of mailing. The date of mailing is the date shown by the postmark. ~~and only in~~ *In* the absence of a legible postmark, the date of mailing is the date shown by the postage meter mark, and only in the absence of both a legible postmark and a legible postage meter mark, the date of mailing is the date shown by the affidavit, certificate, or certification of mailing.

ITEM 9. Amend subrule 3.5(10) as follows:

3.5(10) Filing of complaint.

a. A complaint of discrimination is filed by any of the methods listed in this rule.

b. The date a complaint of discrimination is filed with the commission is the date the complaint is received by the commission. ~~Provided, however, that if the~~ *However, if* the complaint is filed by fax ~~which and~~ is received ~~outside after~~ the office hours set forth in 161—paragraph 1.1(1)“b,” the date of filing is the next day ~~that the commission offices are open for business.~~ Transmissions received prior to office hours on a regular business day of the commission are *deemed* filed on that day.

c. No change.

ITEM 10. Amend rule 161—3.6(216) as follows:

161—3.6(216) Notice of the complaint. After jurisdictional review and within 20 days of receipt of the complaint, the executive director or designee shall serve respondent with a copy of the complaint by certified mail. *Only if the first named respondent on a complaint is not a governmental entity, service of a true copy on the respondent shall be by certified mail.* A letter of acknowledgment shall advise the complainant of the right to withdraw the complaint and sue in the *appropriate* district court according to Iowa Code section 216.16.

ITEM 11. Amend subrule 3.10(5) as follows:

3.10(5) Closure by commission. ~~Where~~ *When* the commission has sent a right-to-sue letter, a commission staff

member shall close the case by an administrative closure. Notice of the closure shall be mailed to ~~both~~ *all* parties by ~~certified mail.~~

ITEM 12. Amend paragraph **3.12(1)“b,”** subparagraph (2), as follows:

(2) Responses are due 30 days from the mailing of the questionnaire. Extensions will be granted on an informal basis. Requests for extensions may be oral and may be granted or denied orally. No notice of the request for an extension nor of the disposition of that request need be given the nonrequesting party. ~~Since the~~ *The* legislature encourages preliminary screening to be completed within 120 days of *the* filing of the complaint; *therefore*, requests for extensions are strongly discouraged. A request for an extension by a party shall constitute a waiver by that party of any objection to the commission taking longer than the 120-day period to screen the complaint.

ITEM 13. Amend subrule **3.12(2)**, paragraph “c,” as follows:

c. Involuntary satisfactory adjustment. A complaint may be closed as satisfactorily adjusted when the respondent has made an offer of adjustment acceptable to the executive director or designee but not to the complainant. Notice of intended closure shall state reasons for closure and ~~be served by certified mail upon~~ *shall be mailed to* the complainant. The complainant shall be allowed 30 days to respond. The response shall be in writing and state the reasons why the complaint should remain open. The executive director or designee shall review and consider the response before making a closure decision.

ITEM 14. Amend subrule 3.13(3) as follows:

3.13(3) Notice of decision. Both the complainant and respondent ~~shall~~ *may* be notified of the decision in writing by ~~certified regular or certified~~ mail within 15 days of the administrative law judge’s decision.

ITEM 15. Amend subrule 3.13(6) as follows:

3.13(6) Conciliation. All cases that result in findings of probable cause shall be assigned to a staff conciliator for the purpose of initiating attempts to eliminate the discriminatory or unfair practice by conference, conciliation, ~~and~~ *or* persuasion. When a conference is held, a synopsis of the facts which led to the finding of probable cause along with written recommendations for resolution will be presented to the respondent.

ITEM 16. Amend subrule **3.14(8)**, paragraph “a,” as follows:

a. Any person served with a subpoena issued by the commission who intends not to comply with all or part of it shall promptly, after the date of service of the subpoena upon that person, petition the executive director to revoke or modify the subpoena. The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each such portion, the grounds upon which the petitioner relies. A copy of the subpoena shall be attached to the petition. The executive director or designee may as soon as practicable make a final determination upon the petition. The commission shall then mail the determination of the petition ~~via certified by~~ *regular* mail to the petitioner.

ITEM 17. Amend subrule **3.16(2)**, paragraph “b,” as follows:

b. The parties shall be notified whenever the commission is considering the reopening of a matter closed by an

CIVIL RIGHTS COMMISSION[161](cont'd)

“administrative closure,” which notification shall include the reasons therefor. The parties shall be afforded no less than 14 and no more than 30 days to submit their positions, *in writing*, on the reopening ~~in writing~~.

ITEM 18. Amend subrule **3.16(3)**, paragraphs “e” to “g,” as follows:

e. Unless the application for reopening is disposed of by summary denial, all parties shall be notified whenever an application for reopening is made. A copy of the request for reopening along with the grounds asserted in the request for reopening shall be provided to all respondents. The parties shall be afforded no less than 14 and no more than 30 days to submit their position, *in writing*, on the motion for reopening ~~in writing~~.

The commission may summarily deny an application for reopening without seeking additional information and without following any of the procedures set forth in paragraph 3.16(3)“e.” Summary denial is appropriate ~~where~~ *when* the application for reopening either fails to assert any grounds for reopening or asserts grounds which are inadequate ~~on its face~~ to justify reopening.

f. The commission, a commissioner, the executive director or designee may grant or deny the application for reopening. If the application *for reopening* is granted, the matter shall be referred back to the investigating staff, ~~if further investigation is required~~. If no further investigation is required, the commission shall decide the matter on the accumulated record of the case. Each of the parties shall be informed of the action taken on the application to reopen in writing *either by regular or certified mail*. ~~Except in the case of denials of applications to reopen an administrative closure, this written notification shall be sent by certified mail to the last known mailing address of the parties.~~

g. When the commission denies an application for reopening of an administrative closure, the notice of the denial may be made by regular mail ~~rather than by certified mail~~. The date of the denial is the date the denial decision is mailed. ~~Where mailing is by regular mail, the~~ *The* date of mailing is presumed to be the date on the cover letter accompanying the denial unless this date is shown to be in error.

ITEM 19. Amend subrule **3.16(10)** as follows:

3.16(10) Notice of reopening. Whenever the commission reopens or reconsiders a decision, case closure, or other action of the commission ~~under any provision of this rule~~, the commission shall ~~inform~~ *mail* each of the parties *notice* of the reopening in writing sent by *regular or certified* mail to the last-known mailing address.

ITEM 20. Amend subrule **9.5(4)** as follows:

Amend paragraph “a,” subparagraph (1), as follows:

(1) The names and dates of contacts with witnesses ~~except that the report will not disclose the names of any witnesses who request anonymity excepting those witnesses who request to remain anonymous~~. The commission, however, may be required to disclose the names of such witnesses in the course of an administrative hearing or a civil action conducted pursuant to the Iowa civil rights Act;

Amend paragraph “b,” subparagraph (1), introductory paragraph, as follows:

(1) If the commission determines that, based on the totality of the factual circumstances known at the time of the commission’s review, no probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall: issue a short and plain written statement of the facts upon which the no probable cause determination was based; dismiss the complaint; notify the ag-

grieved person(s) and the respondent(s) of the dismissal (including the written statement of facts) by *regular or certified* mail or personal service; and make public disclosure of the dismissal.

Amend paragraph “d” as follows:

d. Timely determination. The commission shall make the probable cause determination within 100 days after the filing of the complaint unless it is impracticable to do so. If the commission is unable to make the determination within this 100-day period, the commission will notify the aggrieved person and the respondent by ~~certified~~ *regular* mail or personal service of the reasons for the delay.

ARC 4806B**ELDER AFFAIRS
DEPARTMENT[321]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby gives Notice of Intended Action to rescind Chapter 21, “Long-Term Care Coordinating Unit Case Management Projects for the Frail Elderly,” and adopt a new Chapter 21, “Case Management Program for Frail Elders,” Iowa Administrative Code.

The new chapter is proposed in order to comply with the requirements of 2005 Iowa Acts, chapter 167, adopted by the 81st General Assembly. This chapter has been written in collaboration with the Department of Human Services. These rules enhance the administrative foundation for operating the Case Management Program for Frail Elders to ensure that additional Medicaid standards can be integrated. Further, these rules standardize client assessment procedures, quality assurance activities, and provisions for resolution of conflict of interest.

Any interested person may make written suggestions or comments on this proposed amendment before 1 p.m., February 3, 2006. Such written comments should be directed to Sherry James, Iowa Department of Elder Affairs, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319; or E-mailed to sherry.james@iowa.gov; or faxed to (515)725-3300.

There will be a public hearing on February 3, 2006, at 1 p.m. over the Iowa Communications Network (ICN), at which time persons may present their views either orally or in writing. Access to the public hearing will be available through the following locations:

Department of Public Safety
Wallace State Office Building
502 East Ninth Street
Des Moines

Iowa Western Community College
2700 College Road
Council Bluffs

Iowa City Community School
509 South Dubuque Street
Iowa City

ELDER AFFAIRS DEPARTMENT[321](cont'd)

Indian Hills Community College
651 Indian Hills Drive, Bldg. 4
Ottumwa

Spencer High School
800 Third Street
Spencer

University of Northern Iowa
Hudson Road and 23rd Street
Schindler 130A
Cedar Falls

At the public hearing, attendees will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any person who intends to attend the public hearing and who has special requirements, such as those related to hearing or mobility impairments, should contact the Elder Affairs Department and communicate specific needs.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 4805B**. The content of that submission is incorporated by reference.

These rules are intended to implement 2005 Iowa Acts, chapter 167, and Iowa Code section 231.23A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 4801B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6 and 2005 Iowa Acts, chapter 175, section 12, the Department of Human Services proposes to amend Chapter 51, "Eligibility," and Chapter 52, "Payment," Iowa Administrative Code.

These amendments implement the annual adjustments to eligibility and payment levels in the State Supplementary Assistance Program necessary to meet the federal pass-along requirements specified in Title XVI of the Social Security Act. Iowa uses the payment levels method of compliance, which requires the state to increase the payment amounts and income limits for State Supplementary Assistance categories effective January 1 of each year as necessary to meet the minimum levels required by the federal government. The minimum levels are indexed by the cost-of-living increase in federal Social Security and Supplemental Security Income (SSI) benefits, which is 4.1 percent for calendar year 2006.

Changes necessary to meet federal pass-along requirements are as follows:

- Increasing the income limit and payment standard for dependent relatives from \$293 per month to \$306.
- Increasing the dependent relative income limits by \$37 per month for an eligible individual (from \$872 to \$909)

and \$48 per month for an eligible couple (from \$1162 to \$1210).

- Increasing the family life home income limit by \$24 per month, from \$741 to \$765.
- Increasing the maximum family life home payment by \$21 per month, from \$652 to \$673.
- Increasing the maximum residential care per diem rate from \$25.07 to \$25.85.

State legislation also requires the Department to increase the personal needs allowance for residents of residential care facilities at the same percentage and at the same time as federal Social Security and SSI benefits are increased. Therefore, these amendments also increase the residential care facility and family-life home personal needs allowance by \$3 per month, from \$89 to \$92.

These amendments do not provide for waivers in specified situations because they benefit the people affected by increasing payment levels and personal allowances.

Any interested person may make written comments on the proposed amendments on or before January 25, 2006. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 4802B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code chapter 249 and 2005 Iowa Acts, chapter 175, section 12.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 4803B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4 and 2005 Iowa Acts, chapter 175, section 6, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

These amendments update the methodology used in determining the Medicaid eligibility and financial participation of a married person residing in a medical institution whose spouse does not live in an institution (i.e., lives in the community). Changes are as follows:

- The maximum amount of the couple's resources that may be attributed to the spouse in the community is increased from \$95,100 to \$99,540. This change affects the amount of resources counted when determining a married applicant's financial eligibility.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- The maintenance needs allowance for the community spouse is increased from \$2,377.50 per month to \$2,488.50 per month. This change affects the amount of the Medicaid member's income that is considered available to contribute toward the cost of care in the medical facility. Current rules set Iowa's maintenance needs allowance at the federal upper limit, indexed for inflation.

The Medicare Catastrophic Coverage Act requires that these figures shall be updated annually based on the consumer price index. The Department has received notice of these increases from the U.S. Department of Health and Human Services.

These changes lower the amount of income and resources that are countable for the spouse in the medical institution. Procedures for appealing the attribution of resources when the community spouse's resource allowance is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance are included in the rule at 441 IAC 75.5(3)"f."

Any interested person may make written comments on the proposed amendments on or before January 25, 2006. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 4804B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code section 249A.3.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 4800B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 153, "Social Services Block Grant and Funding for Local Services," Iowa Administrative Code.

The proposed rules create a new division in Chapter 153 to address policies and procedures for the decategorization of child welfare and juvenile justice funding. The decategorization initiative began in 1989 as a three-year pilot project in Scott County and Polk County, as authorized by 1988 Iowa Acts, chapter 1276, section 12. In the following year, the legislature directed the Department to add projects in Dubuque County and Pottawattamie County. At the end of the pilot, 1992 Iowa Acts, chapter 1229, enacted Iowa Code section

232.188, which allowed any county or group of counties to form a decategorization project.

The purpose of the initiative is to allow the "decategorization" of specific state and state-federal funding categories into a funding pool that the county or counties in the project can use to provide services that are more preventive, more family-centered, and more community-based than may be allowed by the "categorical" funding streams available for child welfare services. Projects must have a governance board, conduct communitywide service planning, and produce an annual service plan and an annual progress report. The initiative has expanded to the point where 98 of Iowa's 99 counties are part of a decategorization project.

These rules are proposed in response to 2005 Iowa Acts, chapter 95, which amended Iowa Code section 232.188. The rules clarify the implementation procedures and requirements for a decategorization project, more clearly define the allowable funding streams for services, and provide clarity on the roles and responsibilities of decategorization governance boards, Department service area managers, and chief juvenile court officers.

These rules do not provide for waivers in specified situations. The rules frequently parallel the statutory language, so the Department's flexibility for approving waivers is limited. The Department has a general rule at 441—1.8(17A,217) that provides the process for requesting a waiver.

Any interested person may make written comments on the proposed amendments on or before January 25, 2006. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 232.188 as amended by 2005 Iowa Acts, chapter 95.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend the title of **441—Chapter 153** as follows:

CHAPTER 153
~~SOCIAL SERVICES BLOCK GRANT AND~~
FUNDING FOR LOCAL SERVICES

ITEM 2. Amend 441—Chapter 153 by adopting **new** Division II as follows:

DIVISION II
DECATEGORIZATION OF CHILD WELFARE AND
JUVENILE JUSTICE FUNDING

PREAMBLE

Decategorization of child welfare and juvenile justice funding is an initiative intended to establish systems of delivering human services based upon client needs that replace systems based upon a multitude of categorical funding programs and funding sources, each with different service definitions and eligibility requirements. Decategorization is designed to redirect child welfare and juvenile justice funding to services that are more preventive, family-centered, and community-based in order to reduce use of restrictive ap-

HUMAN SERVICES DEPARTMENT[441](cont'd)

proaches that rely on institutional, out-of-home, and out-of-community care.

441—153.11(232) Definitions. For the purposes of this division, the following definitions apply:

“Budget accountability” means that expenditures for decategorization services from a decategorization project’s funding pool during the state fiscal year do not exceed the total amount of funding available in the funding pool for the state fiscal year.

“Carryover funding” means moneys designated for a project’s decategorization services funding pool that remain unencumbered or unobligated at the close of the state fiscal year.

“Chief juvenile court officer” mean the judicial department official responsible for managing and supervising juvenile court services operations within one of the eight judicial districts.

“Decategorization” means an initiative established pursuant to Iowa Code section 232.188 that is designed to redirect child welfare and juvenile justice funding to services that are more preventive, family-centered, and community-based in order to reduce use of more restrictive approaches.

“Decategorization agreement” means the agreement entered into among representatives of the department of human services, juvenile court services, and the county government in one or more counties to implement a decategorization project in accordance with the requirements of Iowa Code section 232.188 as amended by 2005 Iowa Acts, chapter 95, and this division.

“Decategorization project” means the county or counties that have entered into a decategorization agreement to implement the decategorization initiative in the county or multi-county area covered by the agreement.

“Decategorization services funding pool” or “funding pool” means the funding designated for a decategorization project from all sources.

“Department” means the Iowa department of human services.

“Governance board” means decategorization governance board, which is the group that enters into and implements a decategorization agreement.

“Service area manager” means the department official responsible for managing the department’s programs, operations, and child welfare budget within one of the eight department service areas.

“Unencumbered or unobligated” means funding within a decategorization services funding pool that is not spent by the project’s governance board for a specific program or purpose by the close of the state fiscal year.

441—153.12(232) Implementation requirements. The decategorization initiative shall be implemented through the creation and operation of decategorization projects. One or more counties may jointly agree to form a decategorization project to implement the initiative. The decategorization initiative shall be implemented in accordance with the following requirements:

153.12(1) Decategorization agreement. Representatives from the department, juvenile court services, and county government within the county or counties interested in forming a decategorization project shall develop a written agreement to work together to implement decategorization.

153.12(2) Department approval. A decategorization project must request and receive approval from the department director.

153.12(3) Governance board. A decategorization project shall be implemented by a decategorization governance board.

a. The department director shall ensure that each decategorization project has an operating governance board that includes:

(1) Representatives designated by administrators of the department and of juvenile court services; and

(2) Officials with the authority to represent county government in the affected county or counties.

b. Decategorization projects may choose to expand their governance boards to include representatives from other entities.

153.12(4) Department information. The service area manager shall provide the governance board with:

a. Information concerning the department service area’s funding allocation for department-administered child welfare service programs; and

b. A copy of the service area’s child welfare and juvenile justice annual plan.

153.12(5) Juvenile justice information. The chief juvenile court officer shall provide the governance board with information on the judicial district’s allocation of funding for juvenile justice service programs.

153.12(6) Support and coordination. The department service area manager and chief juvenile court officer shall:

a. Work with the governance board throughout each state fiscal year to coordinate planning and to target resources most effectively.

b. Regularly provide the governance board with available data concerning child welfare and juvenile justice needs, service trends and expenditures, child welfare and juvenile justice outcomes, and other relevant issues.

c. Work with the governance board to:

(1) Support board planning and service development; and

(2) Promote effective alignment of available financial resources to enhance preventive, family-centered and community-based services.

441—153.13(232) Role and responsibilities of decategorization project governance boards. The governance board of a decategorization project shall have the following authority and responsibilities:

153.13(1) Rules of operation. The governance board shall establish and adopt written rules of operation that are available to the public.

153.13(2) Open meetings and records. The governance board shall adhere to statutory requirements for government bodies concerning open meetings and open records procedures as specified in Iowa Code chapters 21 and 22.

153.13(3) Coordination. The governance board shall coordinate project planning, decategorization service decisions, and budget planning activities with the service area manager and the chief juvenile court officer for the county or counties comprising the project.

153.13(4) Right to services. The governance board shall implement the decategorization initiative in a manner that does not limit the legal rights of children and families to receive services.

153.13(5) Community service planning. The governance board shall undertake community planning activities within the county or counties comprising the project. These activities shall be designed to develop services that are more preventive, family-centered, and community-based.

a. As part of decategorization community planning, the governance board shall partner with other community stakeholders to develop service alternatives that provide less re-

HUMAN SERVICES DEPARTMENT[441](cont'd)

strictive levels of care for children and families within the project area. The governance board shall involve community representatives, including representatives for families and youth and for county organizations, in the development of specific and quantifiable short-term and long-term plans for:

(1) Enhancing preventive, family-centered and community-based services; and

(2) Reducing reliance on out-of-community care and restrictive interventions.

b. In community planning, the governance board may use information from federal reviews of Iowa's child welfare system and indicators and outcomes from other community planning efforts. The governance board shall coordinate its community planning efforts as much as possible with those of other planning entities in the community, such as but not limited to:

(1) Communities of promise;

(2) Community empowerment;

(3) United Way;

(4) Community partnerships for protecting children;

(5) Comprehensive school improvement planning;

(6) Comprehensive substance abuse agency planning;

and

(7) Substance-abuse-free environment (SAFE) program planning.

153.13(6) Annual service plan. The governance board shall oversee the development and submission of an annual child welfare and juvenile justice services plan that meets the requirements of rule 441—153.18(232). The governance board shall involve community representatives and county organizations in the development of the plan for the use of the decategorization services funding pool.

153.13(7) Fiscal management. The governance board shall manage and have authority over the project's decategorization services funding pool.

a. The governance board shall develop a plan to maintain budget accountability by ensuring during each state fiscal year that there is ongoing accountability for results, fiscal monitoring, and oversight of expenditures from the decategorization services funding pool.

b. Budget planning and decategorization services funding decisions shall be coordinated with the affected service area managers and chief juvenile court officers or their designees throughout each state fiscal year.

c. The governance board shall ensure that expenditures do not exceed the amount of funding available within the funding pool.

d. If necessary, the governance board shall approve actions to reduce expenditures, discontinue programs, or take other action to manage expenditures within the available decategorization services funding pool during each state fiscal year.

153.13(8) Annual report. The governance board shall oversee the development and submission of an annual progress report for the decategorization project that meets the requirements of rule 441—153.19(232).

441—153.14(232) Realignment of decategorization project boundaries. If a governance board votes to change the composition of counties participating in the project, the governance board shall send a letter to the department director which describes the nature of the proposed project realignment and is signed by each board member who supports the proposed realignment.

153.14(1) If the realignment request involves the move of one or more counties from one decategorization project to another, the governance board of the project receiving the

county or counties shall send a letter to the department director expressing support for the realignment.

153.14(2) The department director shall review the request and within 30 days shall provide a written decision to the project governance boards involved.

a. In evaluating the request, the department director shall consider the reasons expressed for the proposed realignment and the community and budgetary impacts of the realignment.

b. The director may consult with governance board representatives and others before making a decision.

441—153.15(232) Decategorization services funding pool.

153.15(1) Creation and composition of pool. The department shall create the decategorization services funding pool for a project by combining funding resources that may be made available to the project from one or more of the following funding sources:

a. The project's allocation of any funding designated for decategorization in a state appropriation. When the general assembly designates a portion of the department's child welfare appropriation specifically for decategorization services, the designated funds shall be allocated to decategorization project services funding pools. Unless otherwise specified by legislation, the designated funds shall be allocated among decategorization projects based solely on each project's share of the population of children under the age of 18.

b. Child welfare and juvenile justice services funds that are:

(1) Specifically designated and committed in writing to the project by the service area manager; and

(2) Accepted by the project's governance board.

c. Any juvenile justice program funds that are:

(1) Specifically designated and committed in writing to the decategorization project by a chief juvenile court officer; and

(2) Accepted by the project's governance board.

d. Any carryover funds available to the project from funding transfers and from operation of decategorization services during the previous state fiscal year.

e. Funds made available to the project from any other funding source, such as another state agency or a grant awarded to the project. Funds awarded to the project under this provision may be subject to specific conditions, reporting requirements, and expenditure limits specified by the entity that awards funding.

153.15(2) Use of funding pool. A governance board shall use the funding pool in accordance with the following requirements:

a. Decategorization services funding shall be used to provide services that meet at least one of the following criteria:

(1) Services are flexible;

(2) Services are individualized;

(3) Services are family-centered;

(4) Services are preventive;

(5) Services are community-based;

(6) Services are comprehensive; or

(7) Services promote coordinated service systems for children and families in order to reduce the use of restrictive approaches that rely on institutional, out-of-home, and out-of-community care.

b. The governance board may use the funding pool for enhancements to the child welfare and juvenile justice service systems within the project.

HUMAN SERVICES DEPARTMENT[441](cont'd)

c. Decategorization services funding shall not be used for any of the following services:

- (1) Institutional services;
- (2) Out-of-home services; or
- (3) Out-of-community services.

d. The funding pool shall be expended in accordance with statutes and rules regarding vendor solicitation and service contracting, including Iowa Code chapter 8 and 11—Chapters 106 and 107, Iowa Administrative Code.

153.15(3) Designation and transfer of department funds. A service area manager may choose during each state fiscal year to designate and transfer a portion of the service area's child welfare and juvenile justice service allocation to a decategorization project's funding pool. When designating funds, the service area manager and the governance board shall follow these procedures:

a. The service area manager shall provide written notification of any funding designations to the governance boards within the service area by June 1 of the state fiscal year. The service area manager shall specify any special terms and conditions of the funding designation in the written notification to the governance board.

b. The governance board shall consider the offer of designated funding and provide written notification of acceptance or rejection to the service area manager by June 30 of the state fiscal year.

c. If the governance board accepts the designated funding, the funds shall:

- (1) Be transferred to the project's decategorization services funding pool; and
- (2) Be under the sole management authority of the governance board, subject to any special terms and conditions agreed to by the governance board.

d. Any funding from such transfers that remains unencumbered or unobligated at the close of the state fiscal year shall be carryover funding in accordance with subrule 153.15(5).

153.15(4) Designation and transfer of juvenile justice funds. A chief juvenile court officer may choose to designate and transfer a portion of the judicial district's juvenile justice program funding to a decategorization project's services funding pool. When designating funds, the chief juvenile court officer and the governance board shall follow these procedures:

a. The chief juvenile court officer shall provide written notification of any funding designations to the governance boards within the judicial district by June 1 of the state fiscal year. The chief juvenile court officer shall specify any special terms and conditions of the funding designation in the written notification to the governance board.

b. The governance board shall consider the offer of funding and shall provide the chief juvenile court officer with written notification of acceptance or rejection of the funding by June 30 of the state fiscal year.

c. If the governance board accepts the designated funding, the funds shall:

- (1) Be transferred to the project's decategorization services funding pool; and
- (2) Be under the sole management authority of the governance board, subject to any special terms and conditions agreed to by the governance board.

d. Any funding from such transfers that remains unencumbered or unobligated at the close of the state fiscal year shall be carryover funding in accordance with subrule 153.15(5).

153.15(5) Carryover funding. Funds allocated to a decategorization project from a legislative appropriation for decategorization services and funds designated and transferred to a decategorization project's funding pool that remain unencumbered or unobligated at the close of a state fiscal year are referred to as "carryover funding." The following procedures shall apply to the determination and use of decategorization carryover funding:

a. Upon the close of a state fiscal year, the department shall determine the exact amount of funding that is unencumbered or unobligated in each project's decategorization services funding pool. The department shall collaborate with governance boards to reconcile expenditure records and determine the amount of carryover funding for each decategorization project.

b. Before December 15 of each state fiscal year, the department shall provide each governance board with written notification of the official amount of carryover funding available from the previous state fiscal year.

c. Carryover funding shall not revert to the state general fund but shall remain available to the governance board until the close of the succeeding state fiscal year.

d. Carryover funding shall be under the authority of the project's governance board. These funds shall be available for expenditure for child welfare and juvenile justice systems enhancements and other purposes of the project as determined by the governance board.

e. Any carryover funding not expended by a decategorization project by the close of the succeeding state fiscal year shall revert to the fiscal authority of the department. The department shall return these funds to the state general fund.

441—153.16(232) Relationship of decategorization funding pool to other department child welfare funding. With the exception of any portion of the service area's child welfare allocation that is allocated by law for decategorization services, each service area's child welfare allocation shall be managed under the authority of the respective service area manager as follows:

153.16(1) Allocation. Each service area manager receives an allocation from the state appropriation for child welfare and juvenile justice services funding to meet child welfare and juvenile justice needs within all counties comprising the service area. The service area manager is responsible for meeting service needs throughout the service area within that allocation.

153.16(2) Budgeting. The service area manager may establish internal child welfare and juvenile justice services budget targets for the counties comprising the service area. Based on budget monitoring and changes in circumstances, the service area manager may revise the child welfare and juvenile justice budget targets within the service area to provide for the safety, permanency, and well-being of children served in the child welfare and juvenile justice systems.

153.16(3) Transfer to project. A service area manager may choose to designate and to transfer a portion of the service area's child welfare allocation to the funding pool of a decategorization project. The service area manager may ask a governance board to accept specific terms and conditions concerning use of this funding. Once funding is transferred to a governance board, the funding is under the management authority of the governance board, subject to any special terms and conditions agreed to by the governance board.

153.16(4) Communication with the governance board. The service area manager shall regularly communicate with the governance boards within the service area to provide updated data and other information on child welfare and juve-

HUMAN SERVICES DEPARTMENT[441](cont'd)

nile justice funding amounts, service expenditures and trends, and other issues in order to assist the governance board in service and budget planning.

441—153.17(232) Relationship of decategorization funding pool to juvenile court services funding streams. Funds allocated by the department among the eight judicial districts for the court-ordered services and graduated sanctions programs shall be managed under the authority of the chief juvenile court officer for each judicial district as follows:

153.17(1) Allocation. Each chief juvenile court officer receives an allocation from the state appropriation for the court-ordered services and graduated sanction programs. The chief juvenile court officer is responsible for managing needs for these programs throughout the judicial district within that allocation.

153.17(2) Budgeting. The chief juvenile court officer may establish internal budget targets for expenditures from the court-ordered services and graduated sanction programs for the counties comprising the judicial district. Based on budget monitoring and changes in circumstances, a chief juvenile court officer may revise the budget targets established within the judicial district to provide programs most effectively for children within the district.

153.17(3) Transfer to project. A chief juvenile court officer may choose to designate and to transfer a portion of the judicial district's allocation for court-ordered services and graduated sanction programs to the funding pool of a decategorization project. The chief juvenile court officer may ask a governance board to accept specific terms and conditions concerning use of this funding. Once funding is transferred to a governance board, the funding is under the management authority of the governance board, subject to any special terms and conditions agreed to by the governance board.

153.17(4) Communication with governance board. The chief juvenile court officer shall regularly communicate with the governance boards within the judicial district to provide data and other information on juvenile justice program allocation amounts, service expenditures and trends, and other issues that may assist the governance boards in service and budget planning.

441—153.18(232) Requirements for annual services plan. Each decategorization project shall annually develop and submit a child welfare and juvenile justice decategorization services plan.

153.18(1) Content of plan. The decategorization services plan shall describe:

a. The project's proposed use of funding from the decategorization services funding pool during the state fiscal year.

b. The community planning and needs assessment process that was used in developing the annual decategorization services plan, including information on:

(1) The community members and organizations that participated in developing the plan; and

(2) Efforts to coordinate with other community planning initiatives affecting children and families.

c. The project's specific and quantifiable short-term plans and desired results for the state fiscal year and how these plans align with the project's long-term plans to improve outcomes for vulnerable children and families by enhancing service systems.

d. The methods that the project will use to track results and outcomes during the year.

e. The project's plans for monitoring and maintaining fiscal accountability, which shall include monitoring:

(1) The performance and results achieved by contractors that receive funding; and

(2) Expenditures from the decategorization services funding pool throughout the state fiscal year.

f. The project's plans to expend projected carryover funds by the conclusion of the state fiscal year.

153.18(2) Submission of plan. The decategorization services plan shall be submitted to the department's child welfare administrator and to the Iowa empowerment board by October 1 of each state fiscal year.

441—153.19(232) Requirements for annual progress report. Each decategorization project shall develop and submit an annual progress report.

153.19(1) Content of report. At a minimum, the progress report shall:

a. Summarize the project's key activities and the progress toward reaching the project's desired outcomes during the previous state fiscal year;

b. Describe key activities, outcomes, and expenditures for programs and services that received funding from the governance board during the previous state fiscal year.

c. Describe any lessons learned and planning adjustments made by the governance board during the previous state fiscal year.

153.19(2) Submission of report. The progress report shall be submitted to the department's child welfare administrator and to the Iowa empowerment board by December 1 of each state fiscal year.

These rules are intended to implement Iowa Code section 232.188 as amended by 2005 Iowa Acts, chapter 95.

ARC 4778B

INSURANCE DIVISION[191]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 514B.23, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 40, "Health Maintenance Organizations," Iowa Administrative Code.

The proposed rule authorizes the electronic delivery of accident and health group insurance certificates in an efficient manner by health maintenance organizations, while guaranteeing that individual plan members still receive the important information contained in such group insurance certificates, as required by Iowa Code section 514B.9 and as allowed by the Uniform Electronic Transactions Act, Iowa Code chapter 554D.

This chapter does not provide for waivers. Persons seeking waivers must petition the Division for a waiver in the manner set forth under 191—Chapter 4.

Any interested person may make written comments on the proposed rule on or before January 24, 2006. Written comments may be sent to Angela Burke Boston, Assistant Commissioner, Insurance Division, 330 Maple, Des Moines, Iowa 50319. Comments may also be submitted electronically to angela.burke.boston@iid.state.ia.us.

INSURANCE DIVISION[191](cont'd)

A public hearing will be held at the office of the Insurance Division at 10 a.m. on Wednesday, January 25, 2006. The Division is located at 330 Maple, Des Moines, Iowa.

This rule is intended to implement Iowa Code section 514B.23.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** rule is proposed.

191—40.25(514B) Electronic delivery of accident and health group insurance certificates.

40.25(1) Purpose. The purpose of this rule is to authorize the electronic delivery of accident and health group insurance certificates in an efficient manner by health maintenance organizations and group policyholders, while guaranteeing that individual plan members still receive the important information contained in such group insurance certificates, as required by Iowa Code section 514B.9 and as allowed by the uniform electronic transactions Act, Iowa Code chapter 554D.

40.25(2) Scope. This rule shall apply to all health maintenance organizations holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapter 514B.

40.25(3) Electronic delivery—health maintenance organizations. The health maintenance organization will be deemed to comply with the requirements of Iowa Code section 514B.9 if the group insurance certificate is delivered to the group policyholder electronically and if:

a. The health maintenance organization takes appropriate and necessary measures to ensure that the system for furnishing group insurance certificates results in actual receipt of transmitted information by group policyholders, which may be done by:

- (1) Using return-receipt electronic mail features;
- (2) Periodic reviews or surveys to confirm receipt of the transmitted information; or
- (3) Any other method approved by the insurance commissioner.

b. The electronic documents contain the same content and appear in reasonably the same format as the certificates previously approved by the insurance commissioner.

c. Each group policyholder is provided notice, through electronic means or in writing, apprising the group policyholder of the fact that the certificate will be furnished electronically, of the significance of the certificate and the group policyholder's obligations under this rule, and of the group policyholder's right to request and receive a paper copy of the document for each participant.

d. Upon request of any group policyholder, the health maintenance organization furnishes paper copies of the group insurance certificate that was delivered to the group policyholder electronically, so that the group policyholder may provide them to participants that have requested paper copies.

40.25(4) Electronic delivery—group policyholders. The group policyholder will be deemed to comply with the requirements of Iowa Code section 514B.9 if the group insurance certificate is delivered to the individual plan member electronically and if:

a. The group policyholder takes appropriate and necessary measures to ensure that the system for furnishing group

insurance certificates results in actual receipt of transmitted information by participants, which may be done by:

- (1) Using return-receipt electronic mail features;
- (2) Periodic reviews or surveys to confirm receipt of the transmitted information; or
- (3) Any other method approved by the insurance commissioner.

b. The electronic documents contain the same content and appear in reasonably the same format as the certificates previously approved by the insurance commissioner.

c. Each participant is provided notice, through electronic means or in writing, apprising the participant of the fact that the certificate will be furnished electronically, of the significance of the certificate, and of the participant's right to request and receive, free of charge, a paper copy of the document.

d. Upon request of any participant, the group policyholder furnishes, free of charge, a paper copy of the group insurance certificate that was delivered to the participant electronically.

This rule is intended to implement Iowa Code chapter 514B.

ARC 4798B

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(17), 16.91(5) and 16.91(8), the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 9, “Title Guaranty Division,” Iowa Administrative Code.

The purpose of these amendments is to clarify and define the terms “abstract of title” and “abstract” as they apply to refinanced or junior mortgages in order to facilitate mortgage lenders' participation in the secondary market. These proposed amendments add definitions of “abstract of title,” “nonpurchase product,” “title guaranty report of title,” and “title search(es)” to rule 265—9.3(16). The definition of “abstract of title” that is contained in subrule 9.6(4) has been amended and moved to rule 265—9.3(16), and that portion of the subrule regarding refinanced mortgages and junior mortgages has been amended.

Chapter 9 does not provide for waivers except as required by Iowa Code section 16.91(5), third paragraph. Persons seeking waivers for other matters must petition the Authority for a waiver in the manner set forth under 265—Chapter 18.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on January 24, 2006. Comments should be addressed to Mark Thompson, Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to Mark Thompson at (515)242-4957 or E-mailed to Mark Thompson at mark.thompson@iowa.gov. Persons who wish to comment orally should contact Mark Thompson at (515)242-4990.

These amendments are intended to implement Iowa Code sections 16.5(17), 16.91(5) and 16.91(8).

IOWA FINANCE AUTHORITY[265](cont'd)

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule ~~265—9.3(16)~~ by adding the following **new** definitions alphabetically:

“Abstract of title” or “abstract,” for the purposes of the title guaranty program, means a written or electronic summary of all matters of record including, but not limited to, grants, conveyances, easements, encumbrances, wills, and judicial proceedings affecting title to a specific parcel of real estate, together with a statement including, but not limited to, all liens, judgments, taxes and special assessments affecting the property and a certification by a participating abstractor that the summary is complete and accurate; provided, however, that for purposes of issuance of a title guaranty certificate covering a nonpurchase product, and for only such purposes, “abstract of title” or “abstract” may also mean a title guaranty report of title.

“Nonpurchase product,” for the purposes of the title guaranty program, means a refinanced or junior mortgage securing an amount not more than \$500,000 for a residential property.

“Title guaranty report of title” or “report,” for the purposes of the title guaranty program, means a short form of the abstract of title that is in writing or an electronic summary covering:

1. The last two warranty deeds of title or at least one year prior to the certification date of the report being prepared (whichever is the longer period of time);

2. All liens, judgments, taxes and special assessments affecting the property;

3. An update known as the postclosing title report which extends the search through the refinanced or junior mortgage including releases by addendum; and

4. Certifications by the participating abstractor that the report and its extension are complete and accurate.

“Title search(es)” or “search(es),” for the purposes of the title guaranty program, means the abstract of title.

ITEM 2. Amend subrule 9.6(4) as follows:

9.6(4) Abstract of title. ~~For the purposes of the title guaranty program, an abstract of title shall be a written or electronic summary of all matters of record including, but not limited to, grants, conveyances, easements, encumbrances, wills, and judicial proceedings affecting title to a specific parcel of real estate, together with a statement including, but not limited to, all liens, judgments, taxes or special assessments affecting the property and a certification by a participating abstractor that the summary is complete and accurate.~~

a. Preparation. ~~An abstract of title shall be brought up to date and certified by a participating abstractor prior to the issuance of a title guaranty certificate; provided, that, in the event a titleholder undertakes to refinance a mortgage or grant a junior mortgage on residential property; and a title guaranty certificate was issued for a transaction while said titleholder owned the property; and no changes in the ownership or in the legal description of the property have occurred since the above described title guaranty certificate effective date, for the purposes of the title guaranty program, a title guaranty certificate may be issued for the refinanced or junior mortgage based on the coverage and exceptions from the above described prior title guaranty certificate and a search of the public records from the effective date of the above de-~~

~~scribed prior title guaranty certificate including a ten-year judgment lien search against the titleholder. For the purposes of the title guaranty program, the search and title guaranty certificate issued for refinanced and junior mortgages pursuant to this rule shall be deemed to relate back to the abstract of title and title guaranty certificate issued for the transaction while the said titleholder owned the property.~~

b. Compliance. All abstracts of title and searches shall be prepared and conducted in compliance with division procedures in effect at the time of the updating of the abstract or search. A participating abstractor shall retain a written or electronic copy of each abstract of title or search prepared for a title guaranty certificate and shall provide such copy to the division upon request.

ARC 4779B

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 89A.3(1), the Elevator Safety Board hereby gives Notice of Intended Action to amend Chapter 71, “Administration,” Chapter 72, “New Installations,” Chapter 73, “Existing Facilities,” and Chapter 76, “Permits,” Iowa Administrative Code.

The proposed amendments adopt by reference the latest versions of national safety standards, amend the requirement relating to the posting of operating permits, and remove an exception for certain maintenance inspections on platform lifts with roped hydraulic pistons. These amendments will not necessitate combined expenditures exceeding \$100,000 by all political subdivisions or agencies and entities that contract with political subdivisions to provide services.

The principal reasons for proposing these amendments are to make Iowa’s standards current; to enhance safety of elevator riders, inspectors and mechanics; and to implement legislative intent.

These amendments do not contain a waiver provision because variances may be sought through the Elevator Safety Board.

If requested no later than January 24, 2006, by at least 25 interested persons, a governmental agency, or a group representing at least 25 interested persons, a public hearing will be held January 25, 2006, at 1:30 p.m. in the Stanley Room, 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should telephone (515)242-5869 in advance to arrange access or other needed services. The public hearing will be canceled without further notice if no request for a hearing is received.

Written data, views, arguments or comments to be considered in adoption shall be submitted no later than January 25, 2006, to Division of Labor Services, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.state.ia.us.

LABOR SERVICES DIVISION[875](cont'd)

The Division of Labor Services will issue a regulatory analysis as provided by Iowa Code section 17A.4A if a written request is submitted no later than February 6, 2006, to Division of Labor Services, 1000 E. Grand Avenue, Des Moines, Iowa. The request may be made by the Administrative Rules Review Committee, the Administrative Coordinator, at least 25 persons who each qualify as a small business, or an organization representing at least 25 small businesses.

These amendments are intended to implement Iowa Code chapter 89A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend paragraph **71.2(2)“c,”** introductory paragraph, as follows:

c. Safety tests shall be performed by a qualified person who is employed by a recognized elevator company or persons certified by the commissioner for the purpose of performing safety tests on their own facilities. All tests shall be in accordance with ASME A17.1 (2000 through the 2003 addenda), A17.1-2004, A17.1a-2005 and A17.1S-2005, part 8 (except for rule 8.11.1.1), and A18.1 (2003), part 10 (1999 with 2001 addenda) (except for rule 10.3.2). Safety tests shall be in a format approved by the commissioner. The firm or person conducting the tests shall:

ITEM 2. Amend subrule 72.1(5) as follows:

72.1(5) Installations—January 1, 2004, to present April 4, 2006. As used in this chapter, ASME A17.1 shall mean ASME A17.1 (2000 through the 2003 addenda). As used in this chapter, ASME A18.1 shall mean ASME A18.1 (1999 through the 2001 addenda), except chapters 4, 5, 6, and 7. As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (1998). As used in this chapter, ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2002).

ITEM 3. Amend rule 875—72.1(89A) by renumbering subrule 72.1(6) as 72.1(7) and adopting the following **new** subrule:

72.1(6) Installations—April 5, 2006, to present. As used in this chapter, ASME A17.1 shall mean ASME A17.1-2004, A17.1a-2005 and A17.1S-2005. As used in this chapter, ASME A18.1 shall mean ASME A18.1 (2003), except chapters 4, 5, 6, and 7. As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (2003). As used in this chapter, ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

ITEM 4. Amend rule 875—73.8(89A) as follows:

875—73.8(89A) Maintenance, repair repairs and alterations.

73.8(1) All maintenance, repair, repairs and alterations shall comply with ASME A17.1—(2003) A17.1-2004, A17.1a-2005 and A17.1S-2005.

73.8(2) All maintenance, repairs and alterations to devices covered by ANSI A117.1 shall comply with ANSI A117.1 (1998) (2003).

ITEM 5. Amend subrule 76.4(1) as follows:

76.4(1) Current operating permits or copies of current operating permits shall be displayed in elevator car enclosures. ~~Where the permit has been subjected to repeated defacing or vandalism, it may be filed at the establishment and be made available upon request. Notice that the operating permits are~~

~~available for review and of where the operating permits are located must be posted in the elevator.~~

ITEM 6. Amend rule 875—76.7(89A), introductory paragraph, as follows:

875—76.7(89A) Alterations. When any combination of alterations or changes is made constituting more than 50 percent of the elevator construction, the entire facility shall be brought into compliance with ASME A17.1 (2000 through the 2003 addenda) A17.1-2004, A17.1a-2005 and A17.1S-2005 and shall be deemed a new facility. Alterations or changes constitute more than 50 percent of the construction if they exceed 50 percent of the total points according to the following table:

ARC 4791B

MEDICAL EXAMINERS BOARD[653]

Notice of Termination

Pursuant to the authority of Iowa Code section 147.76, the Medical Examiners Board hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on August 31, 2005, as **ARC 4447B**, to amend Chapter 13, “Standards of Practice and Principles of Medical Ethics,” Iowa Administrative Code.

The Board approved the termination in a telephone conference call on December 9, 2005.

The Notice proposed to amend Chapter 13 by adding language that establishes collaborative practice in the community and hospital settings between physicians and pharmacists. The termination is filed because numerous changes from the Notice were proposed after the public hearing and further negotiations with the Board of Pharmacy Examiners. In addition, the two boards have agreed that their rules on this topic should be adopted at the same time.

The Board is terminating the rule making commenced in **ARC 4447B** and will renounce proposed rules that are compatible with those that will be noticed by the Iowa Board of Pharmacy Examiners.

ARC 4794B

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 40, “Boating Speed and Distance Zoning,” Iowa Administrative Code.

The Department has been petitioned by the Dubuque County Conservation Board and the U.S. Fish and Wildlife Service to draft a rule which will establish a “no-wake” zone in a portion of a backwater area known as Mud Lake on the

NATURAL RESOURCE COMMISSION[571](cont'd)

Mississippi River in Dubuque County. The Dubuque County Conservation Board will be responsible for placement of buoy markers to designate the zoned area. This request is being made in an effort to reduce the negative impacts of large vessels operated at higher speeds and the resulting shoreline erosion and excessive noise levels and to protect the integrity of the Mud Lake area.

The Department has also been petitioned by the East Okoboji Lakes Improvement Corporation for rule making which would establish a speed limit for vessels on certain Dickinson County lakes between the hours of sunset and sunrise. This is a boating safety issue which concerns limited sight visibility during nighttime hours as having a direct effect on a boat operator's ability to recognize and avoid potential hazards.

Any interested person may make written suggestions or comments on the proposed amendment on or before January 24, 2006. Such written materials should be directed to the Law Enforcement Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at (515)281-4515.

There will be public hearings as follows: at 7 p.m. on Thursday, January 26, 2006, at the Arnolds Park City Hall, 156 Highway 71, Arnolds Park, Iowa, and at 11 a.m. on Tuesday, January 24, 2006, in the Fifth Floor West Conference Room of the Wallace State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend a public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code section 456A.24.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend 571—Chapter 40 by adopting the following **new** rules:

571—40.52(462A) Nighttime speed limit, Dickinson County. No vessels, except authorized emergency vessels, shall be operated at speeds greater than 25 miles per hour at any time between one-half hour after sunset and sunrise on all lakes located in Dickinson County.

571—40.53(462A) Zoning of the Mississippi River, Mud Lake, Dubuque County. All vessels shall be operated at a no-wake speed within the area of river mile markers 587.6 to 589.3, in a backwater known as Mud Lake and designated by marker buoys approved by the natural resource commission.

ARC 4792B**NURSING BOARD[655]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 3, "License to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

This amendment returns the nurse license renewal fee to the level set in 2003, eliminating a planned fee increase.

Any interested person may make written comments or suggestions on or before January 24, 2006. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

This amendment is intended to implement Iowa Code section 147.80.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule **655—3.1(17A,147,152,272C)**, definition of "fees," numbered paragraph "**8**," as follows:

8. For the renewal of a license to practice as a registered nurse/licensed practical nurse, \$120 99 for a three-year period.

ARC 4781B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Behavioral Science Examiners hereby gives Notice of Intended Action to amend Chapter 31, "Licensure of Marital and Family Therapists and Mental Health Counselors," Iowa Administrative Code.

The proposed amendment sets forth licensee record-keeping procedures.

Any interested person may make written comments on the proposed amendment no later than January 24, 2006, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building,

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on January 24, 2006, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 154D and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt **new** rule 645—31.12(147) as follows:

645—31.12(147) Licensee record keeping.

31.12(1) A licensee shall maintain sufficient, timely, and accurate documentation in client records.

31.12(2) For purposes of this rule, "client" means the individual, couple, family, or group to whom a licensee provides direct clinical services.

31.12(3) A licensee's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

31.12(4) Clinical services. A licensee who provides clinical services in any employment setting, including private practice, shall:

a. Store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all client records for a minimum of seven years after the date of the client's discharge or death, or, in the case of a minor, for three years after the client reaches the age of majority under state law or seven years after the date of the client's discharge or death, whichever is longer.

b. Maintain timely records that include subjective and objective data, an assessment, a treatment plan, and any revisions to the assessment or plan made during the course of treatment.

c. Provide the client with reasonable access to records concerning the client. A licensee who is concerned that a client's access to the client's records could cause serious misunderstanding or harm to the client shall provide assistance in interpreting the records and consultation with the client regarding the records. A licensee may limit a client's access to the client's records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client's request for access and the licensee's rationale for withholding some or all of a record shall be documented in the client's records.

d. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

31.12(5) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

31.12(6) Correction of records.

a. Hard-copy records. Notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the original record, it must be crossed out with a single, nondeleting line and be initialed and dated by the licensee.

b. Electronic records. If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

31.12(7) Confidentiality and transfer of records. Marital and family therapists or mental health counselors shall preserve the confidentiality of client records in accordance with their respective rules of conduct and with federal and state law. Upon receipt of a written release or authorization signed by the client, the licensee shall furnish such therapy records, or copies of the records, as will be beneficial for the future treatment of that client. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

31.12(8) Retirement, death or discontinuance of practice.

a. If a licensee is retiring or discontinuing practice and is the owner of a practice, the licensee shall notify in writing all active clients and, upon knowledge and agreement of the clients, shall make reasonable arrangements with those clients to transfer client records, or copies of those records, to the succeeding licensee.

b. Upon a licensee's death:

(1) The licensee's employer or representative must ensure that all client records are transferred to another licensee or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The licensee's employer or representative shall notify each active client that the client's records will be transferred to another licensee or entity that will retain custody of the records and that, at the client's written request, the records will be sent to the licensee or entity of the client's choice.

31.12(9) Nothing stated in this rule shall prohibit a licensee from conveying or transferring the licensee's client records to another licensed individual who is assuming a practice, provided that written notice is furnished to all clients.

ARC 4783B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Behavioral Science Examiners hereby gives Notice of Intended Action to amend Chapter 33, "Discipline for Marital and Family Therapists and Mental Health Counselors," Iowa Administrative Code.

The proposed amendment provides the Board the ability to order an examination for mental, physical, or clinical competency or alcohol or drug screening.

Any interested person may make written comments on the proposed amendment no later than January 24, 2006, ad-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

dressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on January 24, 2006, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 154D and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt **new** rule 645—33.5(154D) as follows:

645—33.5(154D) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

33.5(1) Content of order. A board order for a mental, physical, or clinical competency examination shall include the following items:

- a. A description of the type of examination to which the licensee must submit.
- b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.
- c. The time period in which the licensee must schedule the required examination.
- d. The amount of time which the licensee has to complete the examination.
- e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.
- f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.
- g. A requirement that the licensee communicate with the board regarding the status of the examination.
- h. A concise statement of the facts relied on by the board to order the evaluation.

33.5(2) Alternatives. Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

33.5(3) Objection to order. A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. A contested case involving an objection to an examination or-

der will be captioned in the name of Jane Doe or John Doe in order to maintain the licensee's confidentiality.

33.5(4) Closed hearing. Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(4).

33.5(5) Order and reports confidential. An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

33.5(6) Admissibility. In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

33.5(7) Failure to submit. Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

ARC 4777B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Dietetic Examiners hereby gives Notice of Intended Action to amend Chapter 83, “Discipline for Dietitians,” Iowa Administrative Code.

The proposed amendment provides the Board the ability to order an examination for mental, physical, or clinical competency or alcohol or drug screening.

Any interested person may make written comments on the proposed amendment no later than January 24, 2006, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on January 24, 2006, from 10 to 10:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 152A and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Adopt **new** rule 645—83.5(152A) as follows:

645—83.5(152A) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

83.5(1) Content of order. A board order for a mental, physical, or clinical competency examination shall include the following items:

- a. A description of the type of examination to which the licensee must submit.
- b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.
- c. The time period in which the licensee must schedule the required examination.
- d. The amount of time which the licensee has to complete the examination.
- e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.
- f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.
- g. A requirement that the licensee communicate with the board regarding the status of the examination.
- h. A concise statement of the facts relied on by the board to order the evaluation.

83.5(2) Alternatives. Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or to request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

83.5(3) Objection to order. A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. A contested case involving an objection to an examination order will be captioned in the name of Jane Doe or John Doe in order to maintain the licensee's confidentiality.

83.5(4) Closed hearing. Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(4).

83.5(5) Order and reports confidential. An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

83.5(6) Admissibility. In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

83.5(7) Failure to submit. Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

ARC 4789B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners hereby gives Notice of Intended Action to amend Chapter 100, “Practice of Funeral Directors, Funeral Establishments, and Cremation Establishments,” and Chapter 103, “Disciplinary Proceedings,” Iowa Administrative Code.

The proposed amendments clarify responsibilities of the funeral director, clarify contract requirements of crematory establishments, correct rules relating to burial transits, clarify disposition of cremation remains, and provide the Board the ability to order an examination for mental, physical, or clinical competency or alcohol or drug screening.

Any interested person may make written comments on the proposed amendments no later than January 24, 2006, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on January 24, 2006, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 156 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend paragraph **100.7(2)“b”** by adopting **new** subparagraph (5) as follows:

(5) A general price list.

ITEM 2. Amend subrule 100.10(2) as follows:

100.10(2) Employment of a funeral director by a crematory. No aspect of these rules shall be construed to require a funeral director to supervise or perform any functions at a crematory not otherwise required by law to be performed by a funeral director. *The crematory establishment shall contract only with a licensed funeral establishment, and shall not contract directly with the general public.*

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 3. Amend subrule **100.10(4)**, paragraph “a,” subparagraphs (3) and (4), as follows:

(3) ~~If applicable, the~~ *The* name and license number of the funeral establishment and funeral director who obtained the cremation authorization form signed by the authorizing person.

(4) ~~If applicable, the~~ *The* signature of the funeral director.

ITEM 4. Amend subrule **100.10(6)**, paragraphs “a” and “b,” as follows:

a. Cremated remains may be disposed of by placing them in a grave, crypt, or niche; by scattering them in a scattering area as defined in these rules; or they may remain in the personal care and custody of the authorized person. ~~In the event that the cremated remains are placed in a grave, crypt, niche or scattered in a scattering area, it is the responsibility of the authorized person or the authorized person’s designee to forward the burial transit permit to the state or the funeral director who arranged the cremation services so the death certificate can be amended and accurately reflect the place of final disposition.~~ After supervising the transfer of cremated remains to the authorized person or place of final disposition, the funeral director shall be discharged.

b. Upon the completion of the cremation process, the crematory shall release the cremated remains to the funeral establishment *or the authorized person or their the authorized person’s* designee. Upon the receipt of the cremated remains, the individual receiving them may transport them in any manner in this state without a permit, and may dispose of them in accordance with this rule. After releasing the cremated remains, the crematory shall be discharged from any legal obligation or liability concerning the cremated remains.

ITEM 5. Adopt new rule 645—103.7(156) as follows:

645—103.7(156) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee’s expense.

103.7(1) Content of order. A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

103.7(2) Alternatives. Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the

board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

103.7(3) Objection to order. A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. A contested case involving an objection to an examination order will be captioned in the name of Jane Doe or John Doe in order to maintain the licensee’s confidentiality.

103.7(4) Closed hearing. Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(4).

103.7(5) Order and reports confidential. An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

103.7(6) Admissibility. In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians’ or health care providers’ testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

103.7(7) Failure to submit. Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

ARC 4796B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for Massage Therapy hereby gives Notice of Intended Action to amend Chapter 131, “Licensure of Massage Therapists,” Iowa Administrative Code.

The proposed amendment provides for the Board to accept the applicant’s copy of examination passage as initial proof prior to official examination service notification to expedite the application process.

Any interested person may make written comments on the proposed amendment no later than January 24, 2006, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.iowa.us.

A public hearing will be held on January 24, 2006, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room,

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 152C and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule 131.2(7) as follows:

131.2(7) The applicant shall provide proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination. Proof of passing shall be sent directly from the testing service to the board of examiners for massage therapy. *The applicant may submit a copy of the official notification from the testing service of the applicant's passing the NCBTMB written examination. The copy of the applicant's official notification may be used by the board as proof of passage of the NCBTMB examination until the official proof of passage is received directly from the NCBTMB. Submission of the applicant's copy of the official notification from the testing service shall not be allowed in lieu of the applicant's arranging for and the board's receiving the official record of proof of passage sent directly from the NCBTMB. The examination score must be received from the NCBTMB within 60 days of issuance of the license. The passing score on the written examination shall be the passing point criterion established by the national testing authority at the time the test was administered.*

ARC 4785B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Massage Therapy Examiners hereby gives Notice of Intended Action to amend Chapter 131, "Licensure of Massage Therapists," and Chapter 134, "Discipline for Massage Therapists," Iowa Administrative Code.

The proposed amendments define the national examination required for endorsement and provide the Board the ability to order an examination for mental, physical, or clinical competency or alcohol or drug screening.

Any interested person may make written comments on the proposed amendments no later than January 24, 2006, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on January 24, 2006, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may pre-

sent their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 152C and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **645—131.6(152C)**, numbered paragraph **"5,"** as follows:

~~5. Submits a certified copy of the scores from the appropriate professional examination to be sent to the board, if applicable Provides proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination. Proof of passing shall be sent directly from the testing service to the board of examiners for massage therapy. The passing score on the written examination shall be the passing point criterion established by the national testing authority at the time the test was administered;~~ and

ITEM 2. Adopt **new** rule 645—134.6(152C) as follows:

645—134.6(152C) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

134.6(1) Content of order. A board order for a mental, physical, or clinical competency examination shall include the following items:

- a. A description of the type of examination to which the licensee must submit.
- b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.
- c. The time period in which the licensee must schedule the required examination.
- d. The amount of time which the licensee has to complete the examination.
- e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.
- f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.
- g. A requirement that the licensee communicate with the board regarding the status of the examination.
- h. A concise statement of the facts relied on by the board to order the evaluation.

134.6(2) Alternatives. Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

134.6(3) Objection to order. A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the re-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

quest for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. A contested case involving an objection to an examination order will be captioned in the name of Jane Doe or John Doe in order to maintain the licensee's confidentiality.

134.6(4) Closed hearing. Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(4).

134.6(5) Order and reports confidential. An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

134.6(6) Admissibility. In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

134.6(7) Failure to submit. Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

ARC 4786B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Social Work Examiners hereby gives Notice of Intended Action to amend Chapter 280, “Licensure of Social Workers,” Iowa Administrative Code.

The proposed amendments provide that the Board will accept the Association of Social Work Boards (ASWB) Social Work Registry verification of academic transcripts and verification of licensure in other states.

Any interested person may make written comments on the proposed amendments no later than January 24, 2006, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on January 24, 2006, from 10:30 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 154C and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Adopt **new** subrule 280.3(12) as follows:

280.3(12) In lieu of the requirements in subrules 280.3(4) and 280.3(5), the board will accept the ASWB Social Work Registry verification of academic transcripts and verification of licensure in other states.

ITEM 2. Adopt **new** subrule 280.4(6) as follows:

280.4(6) In lieu of the requirements in subrule 280.4(4), the board will accept the ASWB Social Work Registry verification of the ASWB examination results.

ITEM 3. Adopt a **new** unnumbered paragraph at the end of rule **645—280.7(154C)** as follows:

In lieu of the requirements in numbered paragraphs “4,” “5,” and “6” of this rule, the board will accept the ASWB Social Work Registry verification of academic transcripts, examination scores, and licensure in other states.

ARC 4775B**TRANSPORTATION
DEPARTMENT[761]****Notice of Intended Action**

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 316.9, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 111, “Real Property Acquisition and Relocation Assistance,” Iowa Administrative Code.

Iowa Code section 316.9 requires the Department to adopt administrative rules to ensure compliance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act). To comply with this rule-making requirement, the Department adopts by reference Section II of the manual entitled “Uniform Manual, Real Property Acquisition and Relocation Assistance.” This manual, which is published by the Department, is based on federal regulations, 49 CFR Part 24, which implement the Uniform Act.

This rule making adopts a new edition of Section II of the manual. Section II is revised to reflect changes made to 49 CFR Part 24. The revised federal regulations include a number of technical changes. Some of the more significant changes are:

Nonresidential (business) displacements

Nonresidential advisory services to be provided by the displacing agency are expanded. For each business to be displaced, the displacing agency is required to evaluate the availability of replacement sites and moving problems, determine the business's relocation needs and preferences and its replacement site requirements, and determine the need for specialists to assist in planning the move, moving and reinstalling personal property.

TRANSPORTATION DEPARTMENT[761](cont'd)

Reimbursement limits for reasonable and necessary expenses actually incurred in searching for a replacement business property are increased from \$1,000 to \$2,500.

Expenses for utility connections from the right-of-way to the replacement business site, soil testing, and one-time impact fees for anticipated heavy utility usage are reimbursable if the displacing agency determines they are reasonable and necessary. These expenses formerly were included in "reestablishment expenses," which are capped at \$10,000.

Residential displacements

A displaced tenant's income will not be considered in the base monthly rent used to determine the maximum rental assistance payment for which the tenant can qualify unless the person is classified as "low income" based on the Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Programs. Currently, income is a consideration for all displaced tenants.

Displaced tenants who elect to buy instead of rent replacement housing may apply the entire amount of the rental assistance payment toward a down payment instead of that part which is determined to be "necessary."

Displaced homeowners who elect to rent instead of buy replacement housing may apply the entire amount of their calculated replacement housing payment toward a rental assistance payment if justified. Currently, this type of rental assistance payment is capped at \$5,250.

A copy of the new edition of Section II of the "Uniform Manual, Real Property Acquisition and Relocation Assistance" is available from the Office of Right of Way, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or by calling (515)239-1401.

Any person or agency may submit written comments concerning this proposed amendment or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: julie.fitzgerald@dot.iowa.gov.
5. Be received by the Director's Staff Division no later than January 24, 2006.

A meeting to hear requested oral presentations is scheduled for Thursday, January 26, 2006, at 10 a.m. in the Administration Building, First Floor South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendment may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Director's Staff Division at the address listed in this Notice by February 6, 2006.

This amendment is intended to implement Iowa Code chapter 316.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

Proposed rule-making action:

Amend rule 761—111.1(316), introductory paragraph, as follows:

761—111.1(316) Acquisition and relocation assistance manual. The ~~October 2002~~ *April 2006* edition of Section II of the manual entitled "Uniform Manual, Real Property Acquisition and Relocation Assistance" is adopted by reference.

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

January 1, 2005 — January 31, 2005	6.25%
February 1, 2005 — February 28, 2005	6.25%
March 1, 2005 — March 31, 2005	6.25%
April 1, 2005 — April 30, 2005	6.25%
May 1, 2005 — May 31, 2005	6.50%
June 1, 2005 — June 30, 2005	6.25%
July 1, 2005 — July 31, 2005	6.25%
August 1, 2005 — August 31, 2005	6.00%
September 1, 2005 — September 30, 2005	6.25%
October 1, 2005 — October 31, 2005	6.00%
November 1, 2005 — November 30, 2005	6.25%
December 1, 2005 — December 31, 2005	6.50%
January 1, 2006 — January 31, 2006	6.50%

UTILITIES DIVISION**Notice of Deregulation**

Pursuant to Iowa Code section 476.1D (2005), the Utilities Board (Board) gives notice that on December 5, 2005, the Board issued an order in Docket No. INU-05-2, In re: Deregulation of Single Line Flat-Rate Local Exchange Services in Competitive Markets, deregulating the rates for single line flat-rated local exchange service in the following Iowa exchanges: Alta, Belle Plaine, Bennett, Cambridge, Carter Lake, Greene, Grundy Center, Guthrie Center, Hartley, Manning, Marble Rock, Marengo, Onawa, Orange City, Osage, Oyens, Paullina, Reinbeck, Slater, and Wapello. The Board's findings are more fully discussed in the order, which may be obtained from the Board by calling (515)281-5563 or on the Board's Web site: <http://www.state.ia.us/iub>.

ARC 4805B**ELDER AFFAIRS
DEPARTMENT[321]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby rescinds Chapter 21, “Long-Term Care Coordinating Unit Case Management Projects for the Frail Elderly,” and adopts a new Chapter 21, “Case Management Program for Frail Elders,” Iowa Administrative Code.

The new rules are intended to comply with the requirements of 2005 Iowa Acts, chapter 167, adopted by the 81st General Assembly. This chapter has been written in collaboration with the Department of Human Services. These rules enhance the administrative foundation for operating the Case Management Program for Frail Elders to ensure that additional Medicaid standards can be integrated. Further, these rules standardize client assessment procedures, quality assurance activities, and provisions for resolution of conflict of interest.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these rules confer a direct benefit to case management clients by shortening the time it takes to access services from several weeks to several days. The emergency filing of these rules prepares the aging network to apply for Medicaid reimbursement of case management services, pending availability of Medicaid funding.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these rules should be waived in order to shorten the time required to access services and to enable the aging network to apply for Medicaid reimbursement of case management services, and the rules should be made effective on January 1, 2006.

The Commission adopted these rules during the Commission meeting held on December 1, 2005.

Notice of Intended Action for this amendment is published herein as **ARC 4806B** to allow for public comment.

These rules became effective on January 1, 2006.

These rules are intended to implement 2005 Iowa Acts, chapter 167, section 14, and Iowa Code section 231.23A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is adopted.

Rescind 321—Chapter 21 and adopt the following **new** chapter in lieu thereof:

CHAPTER 21
CASE MANAGEMENT PROGRAM
FOR FRAIL ELDERS

321—21.1(231) Authority. This chapter implements the case management program for frail elders (CMPFE) as provided in Iowa Code section 231.23A.

321—21.2(231) Purpose. This chapter sets out client eligibility, covered services, program administration and program standards to assist clients in making appropriate use of the long-term care continuum which ranges from care in the home to institutionalization.

321—21.3(231) Definitions. Words and phrases used in this chapter are as defined in 321 IAC 1 unless the context indicates otherwise. The following definitions also apply to this chapter:

“Case management program for frail elders” or “CMPFE” means case management activities that assist an elder in gaining access to needed medical, social, and other appropriate services. Case management services are provided at the direction of the elder and include:

1. A comprehensive assessment of the individual’s needs;
2. Development and implementation of a service plan to meet those needs;
3. Coordination and monitoring of service delivery;
4. Evaluation of outcomes;
5. Periodic reassessment and revision of the service plan as needed; and
6. Ongoing advocacy on behalf of the elder.

“Department of human services” or “DHS” means the department established in Iowa Code chapter 217.

321—21.4(231) Program administration.

21.4(1) All AAA are, and shall remain, designated as CMPFE entities.

21.4(2) Funding to AAA as local administrative entities shall be based on the area plan and adherence to DEA procedures and related IAPI.

21.4(3) The provisions of Iowa Code chapter 22 and 321 IAC 19 shall apply to all aspects of CMPFE services.

21.4(4) The department’s responsibilities shall include policy development and monitoring to ensure AAA adherence to contractual agreements, to applicable federal or state laws, and to regulations and rules.

21.4(5) The department shall specify the forms and data processing software systems to be used in the program.

21.4(6) The department shall have full access to all case management records maintained by the AAA.

21.4(7) Appeals of decisions by the AAA shall follow the procedures given in 321 IAC 2.

321—21.5(231) Eligibility for CMPFE services.

21.5(1) A person meeting all the following criteria shall be eligible for CMPFE services:

- a. Resides in Iowa;
- b. Is aged 60 or older;
- c. Needs one or more services;
- d. Does not live in, or is within 30 days of discharge from, a nursing facility as defined in Iowa Code section 135C.1(13); and
- e. Is in need of case management services based on a standardized assessment of needs.

21.5(2) A person who qualifies for the DHS medical assistance elderly waiver shall also be eligible for CMPFE services.

321—21.6(231) Initiation of case management services.

Case management services shall commence on the date of the assessment of the client.

321—21.7(231) Discharge from CMPFE.

21.7(1) A client shall be discharged from CMPFE when the AAA has determined that any one of the following situations has occurred:

- a. The client dies;
- b. The client moves out of state;
- c. The client moves into a nursing facility and is expected to stay in the facility for more than 30 days;

ELDER AFFAIRS DEPARTMENT[321](cont'd)

d. The client or the client's legal representative requests termination;

e. The client is unwilling or unable to adhere to the agreed-upon service plan;

f. The client or the client's legal representative refuses to provide access to information necessary for the development or implementation of the service plan;

g. The client's needs cannot be met such that the client's health, safety and welfare cannot be ensured; or

h. The client's goals are achieved and the client no longer needs case management.

21.7(2) If the discharge is due to the circumstances given in subrule 21.7(1), paragraphs "d" through "h," and the client is enrolled in the medical assistance elderly waiver, the case manager and the DHS service worker shall confer and agree upon the need for discharge.

21.7(3) The CMPFE coordinator shall approve all recommendations for discharge prior to initiation of discharge action.

21.7(4) If the discharge is due to the circumstances given in subrule 21.7(1), paragraphs "e" through "h," the case manager shall provide a written notice to the client or the client's legal representative stating the reasons for the discharge from case management and include the process for appealing the decision.

321—21.8(231) Organizational requirements.

21.8(1) Each AAA shall establish written procedures that address potential conflicts of interest within the agency and adhere to department requirements as issued under IAPI. Written procedures shall include:

a. The process for delegating case management responsibilities to a case manager;

b. Identification of where conflicts do, or could, exist;

c. Procedures to eliminate or minimize those conflicts;

d. A process for conflict resolution with the client's best interest as the priority; and

e. The process for documentation of conflict resolution which indicates the outcome is satisfactory to all parties.

21.8(2) Each AAA shall adhere to department requirements as issued under IAPI.

21.8(3) Each AAA shall implement the process established by the department for processing client appeals of CMPFE decisions, handling client complaints, and informing clients about their complaint and appeal rights.

21.8(4) Each AAA shall conduct sex offender registry, criminal record, and dependent adult abuse checks on all applicants prior to the AAA's employment of a CMPFE staff person.

21.8(5) Each AAA shall ensure that all CMPFE staff complete mandatory reporter training requirements in accordance with Iowa Code chapter 235B.

321—21.9(231) Personnel qualifications. The following are minimum training, education and work history requirements for AAA and contract personnel in the CMPFE program:

21.9(1) Case manager.

a. Qualifications for employment.

(1) The case manager shall hold a bachelor's degree in the human services field;

(2) The case manager shall be currently licensed as a registered nurse in Iowa; or

(3) The case manager may substitute up to four years' full-time equivalent work experience in a human services field for the educational requirement.

b. Training required during employment. The case manager shall:

(1) Receive formal training in completion of the CMPFE assessment tool;

(2) Attend case management orientation established by the department within six months of employment; and

(3) Attend six hours of long-term care or aging-related training per year.

21.9(2) CMPFE coordinator.

a. Qualifications for employment.

(1) The CMPFE coordinator shall hold a bachelor's degree in the human services field and one year of full-time equivalent work experience in a human services field;

(2) The CMPFE coordinator shall be a licensed registered nurse and have one year of full-time equivalent experience in a health care field; or

(3) The CMPFE coordinator may substitute two years' full-time-equivalent work experience involving direct contact with people in overcoming social, economic, psychological or health problems for two years of the educational requirement.

b. Training required during employment. The CMPFE coordinator shall:

(1) Receive formal training in completion of the CMPFE assessment tool;

(2) Attend case management coordinator training provided by the department within three months of employment; and

(3) Attend six hours of long-term care or aging-related training per year.

21.9(3) CMPFE registered nurse. The CMPFE registered nurse shall:

a. Be currently licensed as a registered nurse in Iowa;

b. Have one year of full-time experience in a human services field; and

c. Receive formal training in completion of the CMPFE assessment tool.

321—21.10(231) Covered services. Case management services may vary by client but shall include comprehensive screening and assessment of the client's needs, development and implementation of a written service plan, ongoing monitoring to ensure that services specified in the plan are being provided, and ongoing advocacy on behalf of the client.

321—21.11(231) Screening and assessment of client needs. Screening and assessment of client needs shall consist of:

21.11(1) Scheduling the home visit;

21.11(2) Obtaining the client's signature on a standard release of information form which documents the client's permission to share information for screening, assessment and case management;

21.11(3) Conducting the functional abilities screening evaluation (FASE) or similar screening tool as established by the department;

21.11(4) Conducting a comprehensive assessment if:

a. The client answers one or more of the screening tool mental health questions incorrectly;

b. The client is unable to perform one or more of the screening tool Activities of Daily Living (ADL) items;

c. Professional judgment of the person completing the screening indicates that the client is in need of further assessment regardless of the results of the screening tool; or

d. The client has applied for the elderly waiver under the medical assistance program; and

ELDER AFFAIRS DEPARTMENT[321](cont'd)

21.11(5) Contacting sources for additional information to complete the assessment tool as needed.

321—21.12(231) Service plan development.

21.12(1) During the home visit and upon completion of the assessment, the case manager shall develop a service plan with the client and provide the client with a list of known service providers available in the client's community.

21.12(2) The written service plan shall include:

- a. Identification of the client's service needs, functioning level, strengths and available family or informal service providers and community resources;
- b. Level of care;
- c. Goals;
- d. Outcomes;
- e. Waiver service providers, frequency and cost;
- f. Nonwaiver services; and
- g. Exit and contingency planning.

21.12(3) The case manager shall educate the client about service options and explain to the client how to access assistance in situations of suspected dependent adult abuse.

21.12(4) The client or the client's legal representative and the case manager shall sign the service plan.

21.12(5) The CMPFE coordinator shall review and sign the service plan.

21.12(6) For clients who are enrolled in the medical assistance elderly waiver, the service plan shall be transmitted to the DHS service worker for final approval.

321—21.13(231) Assessment review and transmission.

Following completion of the assessment, the CMPFE RN shall complete a review of the assessment to ensure that all required fields are completed and that all necessary information is included. For all clients who are currently Medicaid-eligible, or who intend to apply for Medicaid, the completed assessment shall be transmitted to the Iowa Foundation for Medical Care (IFMC) and to the DHS service worker.

321—21.14(231) Monitoring. In order to ensure client health and welfare, the case manager shall:

1. Monitor the provision of services on an ongoing basis;
2. Hold an individual face-to-face meeting with the client at least quarterly to review the service plan and services provided; and
3. Document in the client's case file all contacts and case management activities undertaken on behalf of the client.

321—21.15(231) Reassessment.

21.15(1) A reassessment shall be conducted whenever there is a significant change in the client's status or at least every 12 months. The reassessment shall include review and modification of the information contained in the most recent assessment.

21.15(2) The service plan shall be revised to reflect changes, deletions or additions to services based on any changes in the client's needs.

21.15(3) All reassessments shall be sent to the DHS service worker for clients who are enrolled in the medical assistance elderly waiver. Additionally, all reassessments for level of determination shall be transmitted to IFMC.

321—21.16(231) Confidentiality. Except by written consent of the client or the client's legal representative, the use or disclosure by any person of any information concerning a client for any purpose not directly connected with the administration of the responsibilities of the department, AAA or authorized service provider is prohibited.

321—21.17(231) Contracting for case management services.

21.17(1) AAA may choose to contract with local provider agencies for delivery of case management services. If the AAA contracts for case management services, the AAA shall have written procedures established under 321 IAC 6.9(231) that create a framework for ongoing review of how the contract agency is meeting program standards and the terms of the contract. The department shall audit AAA procedures to ensure that the area agency's monitoring is sufficient and timely.

21.17(2) Provider agencies shall meet all program organization and personnel requirements of this chapter.

21.17(3) The following safeguards shall be in place to ensure that service plan development is conducted in the best interest of the client:

a. When assigning a client to a case management entity under contract, the AAA shall attempt to assign the client to an agency not currently providing services to that particular client if the relationship is known prior to assignment and case management services are available from multiple providers.

b. During the service plan development process, case managers employed by an agency that also provides other direct waiver services shall inform the client or the client's legal representative that such a relationship exists and of the specifics of the relationship such as name and services. The case manager shall emphasize to the client that the client has free choice of providers and that selection of any particular provider will not influence the services provided by the case manager. The conversation and the client's response shall be documented in the case notes.

c. When explaining provider options, the case manager shall fully provide all known facts about the services and the service provider agencies to the client or the client's legal representative. The details presented shall include, at a minimum, the name, address, and telephone number of the potential provider agencies; the types of services provided; and the amount of service the client would be able to receive if there is a cost differential between providers of the same service.

d. All service plans and updates shall be reviewed and approved by the AAA prior to implementation for nonwaiver clients and prior to transmittal to DHS for elderly waiver clients.

21.17(4) The AAA must have a written plan completed to monitor adherence by case management providers to the standards in subrule 21.17(3). Contracts must contain provisions that require case management providers to have written conflict of interest policies that include but are not limited to:

a. Specific procedures to identify where conflicts could exist;

b. Procedures to eliminate or minimize the conflicts upon identification of situations that might indicate that a conflict of interest could exist;

c. Steps that must be taken to resolve the issue when a conflict of interest arises or a complaint of conflict of interest is received; and

d. Written documentation or follow-up letters that show that the outcome was satisfactory to all parties involved.

These rules are intended to implement Iowa Code sections 231.23A and 231.58.

[Filed Emergency 12/14/05, effective 1/1/06]

[Published 1/4/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/06.

ARC 4802B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6 and 2005 Iowa Acts, chapter 175, section 12, the Department of Human Services amends Chapter 51, "Eligibility," and Chapter 52, "Payment," Iowa Administrative Code.

These amendments implement the annual adjustments to eligibility and payment levels in the State Supplementary Assistance Program necessary to meet the federal pass-along requirements specified in Title XVI of the Social Security Act. Iowa uses the payment levels method of compliance, which requires the state to increase the payment amounts and income limits for State Supplementary Assistance categories effective January 1 of each year as necessary to meet the minimum levels required by the federal government. The minimum levels are indexed by the cost-of-living increase in federal Social Security and Supplemental Security Income (SSI) benefits, which is 4.1 percent for calendar year 2006.

Changes necessary to meet federal pass-along requirements are as follows:

- Increasing the income limit and payment standard for dependent relatives from \$293 per month to \$306.
- Increasing the dependent relative income limits by \$37 per month for an eligible individual (from \$872 to \$909) and \$48 per month for an eligible couple (from \$1162 to \$1210).
- Increasing the family life home income limit by \$24 per month, from \$741 to \$765.
- Increasing the maximum family life home payment by \$21 per month, from \$652 to \$673.
- Increasing the maximum residential care per diem rate from \$25.07 to \$25.85.

State legislation also requires the Department to increase the personal needs allowance for residents of residential care facilities at the same percentage and at the same time as federal Social Security and SSI benefits are increased. Therefore, these amendments also increase the residential care facility and family-life home personal needs allowance by \$3 per month, from \$89 to \$92.

These amendments do not provide for waivers in specified situations because they benefit the people affected by increasing payment levels and personal allowances.

The Council on Human Services adopted these amendments December 14, 2005.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments implement 2005 Iowa Acts, chapter 175, section 10, which authorizes the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code sections 17A.5(2)"b"(1) and 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived, because the rules confer a benefit and because emergency rule making is authorized by 2005 Iowa Acts, chapter 175, section 10.

These amendments are also published herein under Notice of Intended Action as **ARC 4801B** to allow for public comment.

These amendments are intended to implement Iowa Code chapter 249 and 2005 Iowa Acts, chapter 175, section 12.

These amendments became effective January 1, 2006.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend subrule 51.4(1) as follows:

51.4(1) Income. Income of a dependent relative shall be less than ~~\$293~~ \$306. When the dependent's income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

ITEM 2. Amend rule 441—51.7(249), introductory paragraph, as follows:

441—51.7(249) Income from providing room and board. In determining profit from furnishing room and board or providing family life home care, ~~\$293~~ \$306 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

ITEM 3. Amend rule 441—52.1(249) as follows:

Amend subrules 52.1(1) and 52.1(2) as follows:

52.1(1) Protective living arrangement. The following assistance standards have been established for state supplementary assistance for persons living in a family life home certified under rules in 441—Chapter 111.

\$652 \$673	Care allowance
\$89 \$92	Personal allowance
\$741 \$765	Total

52.1(2) Dependent relative. The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

- a. Aged or disabled client and a dependent relative ~~\$872~~ \$909
- b. Aged or disabled client, eligible spouse, and a dependent relative . . . ~~\$1162~~ \$1210
- c. Blind client and a dependent relative ~~\$894~~ \$931
- d. Blind client, aged or disabled spouse, and a dependent relative ~~\$1184~~ \$1232
- e. Blind client, blind spouse, and a dependent relative ~~\$1206~~ \$1254

Amend subrule 52.1(3) as follows:

Amend the introductory paragraph as follows:

52.1(3) Residential care. Payment to a recipient in a residential care facility shall be made on a flat per diem rate of \$17.86 or on a cost-related reimbursement system with a maximum per diem rate of ~~\$25.07~~ \$25.85. The department shall establish a cost-related per diem rate for each facility choosing this method of payment according to rule 441—54.3(249).

Amend paragraph "a," subparagraph (2), as follows:

(2) An ~~\$89~~ allowance of \$92 to meet personal expenses and Medicaid copayment expenses.

[Filed Emergency 12/14/05, effective 1/1/06]
[Published 1/4/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/06.

ARC 4804B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 249A.4 and 2005 Iowa Acts, chapter 175, section 6, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

These amendments update the methodology used in determining the Medicaid eligibility and financial participation of a married person residing in a medical institution whose spouse does not live in an institution (i.e., lives in the community). Changes are as follows:

- The maximum amount of the couple's resources that may be attributed to the spouse in the community is increased from \$95,100 to \$99,540. This change affects the amount of resources counted when determining a married applicant's financial eligibility.

- The maintenance needs allowance for the community spouse is increased from \$2,377.50 per month to \$2,488.50 per month. This change affects the amount of the Medicaid member's income that is considered available to contribute toward the cost of care in the medical facility. Current rules set Iowa's maintenance needs allowance at the federal upper limit, indexed for inflation.

The Medicare Catastrophic Coverage Act requires that these figures shall be updated annually based on the consumer price index. The Department has received notice of these increases from the U.S. Department of Health and Human Services.

These changes lower the amount of income and resources that are countable for the spouse in the medical institution. Procedures for appealing the attribution of resources when the community spouse's resource allowance is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance are included in the rule at 441 IAC 75.5(3)"f."

The Council on Human Services adopted these amendments on December 14, 2005.

The Department finds that notice and public participation on these amendments are unnecessary. Public comment is unnecessary because the methods applied to calculate these amounts are set by federal statute and the amounts are effective for all states. In addition, 2005 Iowa Acts, chapter 175, section 6, subsection 5, gives the Department authority to adopt emergency rules when necessary to comply with federal Medicaid requirements. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that these amendments confer a benefit on the public by making cost-of-living adjustments. Emergency rule making for Medicaid is authorized by 2005 Iowa Acts, chapter 175, section 6, subsection 5. Therefore, the Department also finds, pursuant to Iowa Code sections 17A.5(2)"b"(1) and 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived.

These amendments are also published herein under Notice of Intended Action as **ARC 4803B** to allow for public comment.

These amendments are intended to implement Iowa Code section 249A.3.

These amendments became effective January 1, 2006.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend paragraph **75.5(3)"d,"** introductory paragraph, as follows:

d. Method of attribution. The resources attributed to the institutionalized spouse shall be one-half of the documented resources of both the institutionalized and community spouse as of the first moment of the first day of the month of the spouse's first entry to a medical facility. However, if one-half of the resources is less than \$24,000, then \$24,000 shall be protected for the community spouse. Also, when one-half of the resources attributed to the community spouse exceeds ~~\$95,100~~ ~~\$99,540~~, the amount over ~~\$95,100~~ ~~\$99,540~~ shall be attributed to the institutionalized spouse. (The maximum limit shall be indexed annually by the consumer price index.)

ITEM 2. Amend subparagraph **75.16(2)"d"(3),** introductory paragraph and first unnumbered paragraph, as follows:

(3) Needs of spouse. The maintenance needs of the spouse shall be determined by subtracting the spouse's gross income from ~~\$2377.50~~ ~~\$2,488.50~~. (This amount shall be indexed for inflation annually according to the consumer price index.)

However, if either spouse established through the appeal process that the community spouse needs income above ~~\$2377.50~~ ~~\$2,488.50~~, due to exceptional circumstances resulting in significant financial duress, an amount adequate to provide additional income as is necessary shall be substituted.

[Filed Emergency 12/14/05, effective 1/1/06]

[Published 1/4/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/06.

ARC 4797B

EDUCATIONAL EXAMINERS
BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

These amendments permit an applicant who successfully completed a teacher preparation program but who did not apply for an Iowa teaching license at the time of completion of the approved program an opportunity to be a substitute teacher. The amendments also permit an individual who holds only an administrative license to substitute teach.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 12, 2005, as **ARC 4581B**. A public hearing on the amendments was held on November 1, 2005. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 272.

These amendments will become effective February 8, 2006.

The following amendments are adopted.

ITEM 1. Amend subrule 14.119(1) as follows:

14.119(1) A substitute teacher's license may be issued to an individual who:

a. Has been the holder of, or presently holds, a license in Iowa; or holds or held a regular teacher's license or certificate in another state, exclusive of temporary, emergency, substitute certificate or license, or a certificate based on an alternative certification program; or

b. Has successfully completed all requirements of an approved teacher education program and is eligible for the initial license, but has not applied for and been issued this license, or who meets all requirements for the initial license with the exception of the degree but whose degree will be granted at the next regular commencement; or

c. *Has successfully completed all requirements of an approved Iowa teacher education program, but did not apply for an Iowa teacher's license at the time of the completion of the approved program.*

ITEM 2. Amend subrule 14.119(3) as follows:

14.119(3) The holder of a substitute license is authorized to teach in any school system in any position in which a regularly licensed teacher was employed to begin the school year. In addition to the authority inherent in the provisional, initial, educational, standard, professional teacher, master educator, *professional administrator*, two-year exchange, and permanent professional licenses and the endorsement(s) held, the holder of one of these regular licenses may substitute on the same basis as the holder of a substitute license while the regular license is in effect.

[Filed 12/14/05, effective 2/8/06]

[Published 1/4/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/06.

ARC 4799B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4 and 2005 Iowa Acts, chapter 167, section 66, the Department of Human Services amends Chapter 85, "Services in Psychiatric Institutions," and adopts new Chapter 92, "IowaCare," Iowa Administrative Code.

These amendments incorporate two Notices of Intended Action that were published to solicit public comment on rules that were Adopted and Filed Emergency to implement the expansion of the Iowa Medicaid program as directed by 2005 Iowa Acts, chapter 167. These provisions were authorized to receive federal Medicaid matching funds through a five-year demonstration waiver of federal Medicaid requirements approved by the Centers for Medicare and Medicaid Services.

ARC 4330B and its identical emergency filing **ARC 4315B** were published in the Iowa Administrative Bulletin on July 6, 2005. **ARC 4399B** and its identical emergency filing **ARC 4398B** were published in the Iowa Administrative Bulletin on August 3, 2005.

Amendments to Chapter 85 implement the provisions of 2005 Iowa Acts, chapter 167, that allow inpatient and outpatient services at the state mental health institutes as covered Medicaid services for adults. Previously, coverage was limited to persons who were under the age of 21, aged 65 or over, or covered through the Iowa Plan for Behavioral Health.

Chapter 92 implements legislative provisions that create a new Medicaid program called "IowaCare." IowaCare extends limited Medicaid eligibility to:

- People aged 19 through 64 whose household income is less than 200 percent of the federal poverty level and who do not qualify under any other Medicaid coverage group.
- Pregnant women whose gross income is under 300 percent of the federal poverty level and whose allowable medical expenses bring their countable income to below 200 percent of the federal poverty level and to their newborn children.

Eligibility for IowaCare is determined on a 12-month basis, based on an applicant's declared circumstances. Retroactive eligibility is limited to one month. Members must pay a premium for IowaCare coverage, based on 2 percent of the poverty-level increment if the household's income is at or below 100 percent of the federal poverty level or 5 percent of the poverty-level increment if the household's income is more than 100 percent of the federal poverty level. A member must pay for at least four months of premiums. On a month-by-month basis, a member may pay a zero premium due to hardship.

Covered services under IowaCare are limited to inpatient and outpatient hospital care, physician and advanced registered nurse practitioner services, certain dental services, certain pharmacy services, and transportation to and from the network provider. IowaCare places no obligation on the provider network to offer these services or to change the availability of services, including availability based on residence. The IowaCare provider network consists of:

- Broadlawns Medical Center in Des Moines.
- The University of Iowa Hospitals and Clinics.
- The state mental health institutes at Cherokee, Clarinda, Independence, and Mount Pleasant, exclusive of the units

HUMAN SERVICES DEPARTMENT[441](cont'd)

providing substance abuse treatment, services to geropsychiatric patients, or treatment for sexually violent predators.

Most IowaCare members who qualify as pregnant women may also receive pregnancy-related services and newborn care from any provider participating in the Iowa Medicaid program. However, women who live in Cedar, Clinton, Iowa, Johnson, Keokuk, Louisa, Muscatine, Scott, or Washington County must receive those services from the University of Iowa Hospitals and Clinics.

ARC 4399B and **ARC 4398B** made further changes to Chapter 92 to address issues that arose during training and in negotiations with the Centers for Medicare and Medicaid Services over approval of the waivers necessary to operate this program with federal financial participation. Changes included:

- A requirement that IowaCare members cooperate with the quality control unit and the DIA Investigations Unit.
- Eligibility for people whose application for Supplemental Security Income or social security disability benefits is pending.
- The post office box and the ZIP code for mailing premiums.
- A deadline of the premium due date for receipt of a member's signed statement declaring a hardship.
- Eligibility for all IowaCare services for women qualified for expanded access to maternity and newborn care and for their newborn children.

IowaCare is not an entitlement program. Therefore, when available funds are committed before the end of the fiscal year, the program will be discontinued until funding is received for the next fiscal year. Approval of applications will be suspended, and applications may be approved for only partial benefits.

The Department received one comment on **ARC 4330B**, requesting that Clinton County residents be allowed to seek obstetrical and newborn care from facilities other than the University of Iowa Hospitals and Clinics. That is a statutory provision that cannot be amended through rule making.

The University of Iowa Hospitals and Clinics distributed comments at the August meeting of the Administrative Rules Review Committee, and other issues have arisen in the course of implementing the program.

The Department and the University of Iowa Hospitals and Clinics have agreed that procedures for claiming enhanced disproportionate share payments for former indigent care patients with chronic conditions whose incomes are above the eligibility limit for IowaCare are best addressed in the 28E agreement between the University and the Department, rather than in rule making. These payments are adequately addressed in the Department's existing rules at 441—paragraph 79.1(5)“ab.” Concerns about language on enrollment suspension and reduction of services in the event that the program runs out of funding will be addressed in a separate rule making. Concerns about the scope of services and claims procedures relate to statutory language and cannot be resolved through rule making.

The Department has made the following changes to the rules as published in the Notices of Intended Action:

- Requirements in rule 441—85.5(249A) for payment of client participation for care in state mental health institutes have been eliminated effective with the implementation of expanded coverage in July 2005. This provision has always been inconsistent with Medicaid payment standards for care in other acute hospitals, but the effect was masked when only children and a few elderly people were covered. Collecting client participation for short-term care is administratively

burdensome, and clients need to use their income to maintain their homes while they are temporarily in the institution. Provisions for applying third-party payments are moved to subrule 85.7(1).

- Provisions in subrule 92.5(4) identifying countable unearned income have been clarified to be more consistent with provisions of the Family Medical Assistance Program, with all unearned income countable except for listed exemptions, based on federal law.

- Language in subrule 92.6(1) and paragraphs 92.7(1)“d” and “e” has been modified to clarify that the 12-month period cited is a certification period.

- The date in paragraph 92.7(1)“b” for updating eligibility and premium levels based on the annual update of the federal poverty guidelines has been changed from July 1 to April 1, consistent with current practice for other Medicaid coverage groups that are based on federal poverty levels.

- Subparagraph 92.7(2)“b”(2) has been amended so that the premium due date will be extended for a state or federal holiday, so that members are not penalized for not getting payments in on a day which is not a state holiday, but which has no mail delivery.

- Provisions in subrule 92.7(3) for requesting a hardship exemption to paying an IowaCare premium have been clarified. The Department will accept any kind of written statement postmarked before the payment due date as a hardship declaration and will accept a partial payment as a request for hardship exemption for the remainder of the premium for that month.

- A new subrule 92.7(5) has been added to reflect that the Department will refund a premium that has been paid for a period after coverage has been canceled because of a member's receipt of other Medicaid coverage or group health insurance, reaching age 65, or death. Refunds will be offset by any outstanding premiums owed.

- Language in subrule 92.10(3) has been modified to clarify that only changes that affect a member's eligibility or premium amount will be implemented.

- The numbering in rule 441—92.12(249A,81GA, ch167) has been changed from subrules to a numbered list, and the cross reference in numbered paragraph “4” has been corrected to read “441—92.2(249A,81GA,ch167)” instead of “441—92.5(249A,81GA,ch167).”

- Provisions for application of Medicaid estate recovery policies have been added to rule 441—92.13(249A,81GA, ch167). Estate recovery policies were not among the Medicaid requirements included in the waiver request.

- References to the statute implemented have been updated to reflect the publication of the 2005 Iowa Acts.

These amendments do not provide for waivers in specified situations. The Department has general procedures for requesting an exception to policy at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on December 14, 2005.

These amendments are intended to implement 2005 Iowa Acts, chapter 167, divisions I and II, and section 15, subsection 1.

These amendments shall become effective March 1, 2006, at which time the Adopted and Filed Emergency amendments are rescinded.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 85**, preamble, as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

PREAMBLE

Inpatient psychiatric services are provided in three types of psychiatric facilities in addition to general hospitals with psychiatric units: acute care psychiatric hospitals, psychiatric medical institutions for children, and nursing facilities for the mentally ill. *Except for services in the state mental health institutes, Medicaid only covers only persons under the age of 21 and the age of persons aged 65 and older in acute care psychiatric hospitals. Medicaid covers only persons under the age of 21 in psychiatric medical institutions for children, and only persons aged 65 and older in nursing facilities for the mentally ill.* These rules establish conditions of participation for providers, record-keeping requirements, reimbursement methodologies, and client eligibility requirements.

ITEM 2. Amend rule 441—85.1(249A) as follows:

Amend the introductory paragraph as follows:

441—85.1(249A) Acute care in psychiatric hospitals. ~~Acute care in a psychiatric hospital is covered for persons aged 65 and over and for persons under the age of 21. These rules do not apply to general hospitals with psychiatric units.~~

Amend subrule 85.1(1), introductory paragraph, as follows:

85.1(1) Psychiatric hospitals serving persons aged 65 21 and older. A psychiatric hospital serving persons aged 65 21 and older shall meet the federal criteria for an institution for mental disease and shall be licensed pursuant to department of inspections and appeals rule 481—51.36(135B). An out-of-state facility shall be licensed as a psychiatric hospital, shall meet the federal criteria for an institution for mental disease, and shall be certified to participate in the Medicare program. An institution is an institution for mental disease only if its overall character is that of a facility established and maintained primarily for the care and treatment of persons with mental diseases. The following guidelines are used by the department in evaluating the overall character of a facility. These guidelines are all useful in identifying institutions for mental disease; however, no single guideline is necessarily determinative in any given case.

ITEM 3. Amend rule 441—85.5(249A) as follows:

441—85.5(249A) Client participation.

85.5(1) ~~Before July 2005. The resident's~~ *For months before July 2005, the resident shall be liable to pay client participation and medical payments from a third party shall be paid toward the total cost of care on a monthly basis. The state will pay the balance of the cost of care for the month. The facility shall make arrangements directly with the resident for payment of client participation. Client participation is determined according to rule 441—75.16(249A).*

85.5(2) *July 2005 and after. Effective with the month of July 2005, the resident shall not be liable to pay client participation toward the cost of care, and no client participation amount shall be deducted from the state payment to the hospital.*

ITEM 4. Amend subrule **85.7(1)** by adopting **new** paragraph “g” as follows:

g. Medicaid reimbursement shall be reduced by any payments from a third party toward the cost of a patient's care.

ITEM 5. Adopt **new** rule 441—85.8(249A,81GA,ch167) as follows:

441—85.8(249A,81GA,ch167) Eligibility of persons aged 21 through 64.

85.8(1) Facility. Acute care in a psychiatric hospital is covered for persons aged 21 through 64 only at the state mental health institutes at Cherokee, Clarinda, Independence, and Mount Pleasant.

85.8(2) Basis of eligibility. To be eligible for payment for the cost of care provided by one of the covered facilities, a person aged 21 through 64 must be either:

a. Eligible for one of the coverage groups listed in 441—75.1(249A); or

b. Eligible under the IowaCare program pursuant to 441—Chapter 92.

85.8(3) Period of eligibility. A person is considered to be an inpatient until unconditionally discharged. Coverage extends until the last day of the month of discharge.

85.8(4) Extent of eligibility.

a. While on inpatient status, a person eligible under a coverage group listed in 441—75.1(249A) is entitled to the full scope of Medicaid benefits.

b. While on inpatient status, a person eligible under the IowaCare program is entitled to the services listed at 441—92.8(249A,81GA,ch167).

ITEM 6. Adopt the following **new** 441—Chapter 92 in Title VIII, “Medical Assistance”:

CHAPTER 92

IOWACARE

PREAMBLE

This chapter defines and structures the IowaCare program administered by the department pursuant to 2005 Iowa Acts, chapter 167, divisions I and II. It is the department's intent that all state expenditures under the IowaCare program shall qualify for federal financial participation under Title XIX of the Social Security Act (Medical Assistance or Medicaid), as allowed by waivers of Title XIX requirements granted by the Secretary of the U.S. Department of Health and Human Services pursuant to Section 1115 of the Social Security Act (42 U.S.C. §1315). Therefore, this chapter shall not be effective until waivers necessary for federal financial participation become effective and shall remain in effect only as long as such waivers are effective. Further, this chapter shall be construed to comply with the requirements of Title XIX or with the terms of any applicable waiver of Title XIX requirements. To the extent that these rules may be found to be inconsistent with any applicable requirement of Title XIX or the terms of any applicable waiver, the requirements of Title XIX or the terms of the waiver shall prevail.

441—92.1(249A,81GA,ch167) Definitions.

“Applicant” means an individual who applies for medical assistance under the IowaCare program described in this chapter.

“Clean claim” means a claim that can be adjudicated in the Medicaid claims payment system to result in either a paid or denied status.

“Department” means the Iowa department of human services.

“Dependent child” means the child or stepchild of an applicant or member who is living in the applicant's or member's home and is under the age of 18 or is 18 years of age and will graduate from high school or an equivalent level of vocational or technical school or training leading to a certificate or diploma before reaching the age of 19. Correspondence school is not an allowable program of study. “Dependent

HUMAN SERVICES DEPARTMENT[441](cont'd)

child” shall also include a child attending college or a school of higher learning beyond high school if the parents will claim the child as a dependent on their state or federal income tax return.

“Federal poverty level” means the poverty income guidelines revised annually and published in the Federal Register by the U.S. Department of Health and Human Services.

“Group health insurance” means any plan of or contributed by an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer’s employees, former employees, or the families of the employees or former employees.

“IowaCare” means the medical assistance program explained in this chapter.

“Mandatory months” means the first four consecutive months of a certification period.

“Medical expansion services” means the services described in 2005 Iowa Acts, chapter 167, section 6.

“Member” means an individual who is receiving assistance under the IowaCare program described in this chapter.

“Newborn” means an infant born to a woman as defined in paragraph 92.2(1)“b.”

441—92.2(249A,81GA,ch167) Eligibility. IowaCare eligibility shall be determined according to the requirements of rules 441—75.2(249A) to 441—75.4(249A), 441—75.7(249A), 441—75.10(249A), 441—75.12(249A), and 441—75.21(249A) and the provisions of this rule.

92.2(1) Persons covered. Medical assistance under IowaCare shall be available to the following people as provided in this chapter:

a. Persons 19 through 64 years of age who:

(1) Are not eligible for medical assistance under 441—subrules 75.1(1) through 75.1(40); and

(2) Have countable income at or below 200 percent of the federal poverty level.

b. Pregnant women whose:

(1) Gross countable income is below 300 percent of the federal poverty level; and

(2) Allowable medical expenses reduce their countable income to 200 percent of the federal poverty level or below.

c. Newborn children born to women defined in paragraph “b.”

92.2(2) Citizenship. To be eligible for IowaCare benefits, a person must meet the requirements in 441—paragraph 75.11(2)“a.” A person who claims a qualified alien status shall provide documentation of this status.

92.2(3) Other disqualification. A person who has been disqualified for Medicaid for reasons other than excess income or lack of categorical eligibility is not eligible for IowaCare benefits.

92.2(4) Group health insurance. A person who has access to group health insurance is not eligible for IowaCare. An applicant or member shall not be considered to have access to group health insurance if any of the following conditions exist:

a. The applicant or member is not enrolled in the available group health plan and states that:

(1) The coverage is unaffordable; or

(2) Exclusions for preexisting conditions apply; or

(3) The needed services are not services covered by the plan.

b. The applicant or member is enrolled in a group health plan but states that:

(1) Exclusions for preexisting conditions apply; or

(2) The needed services are not covered by the plan; or

(3) The limits of benefits under the plan have been reached.

92.2(5) Payment of assessed premiums. As a condition of eligibility for IowaCare, an applicant or member must pay premiums in accordance with 441—92.7(249A,81GA, ch167). Premiums incurred and unpaid from a previous certification period must be paid in full before an applicant can establish new eligibility under this chapter.

92.2(6) Availability of funds. Eligibility for IowaCare shall not be approved when the department has determined that there are insufficient funds available to pay for additional enrollment, in accordance with 441—92.14(249A,81GA, ch167).

441—92.3(249A,81GA,ch167) Application. Medicaid application policies in 441—76.1(249A) and 441—76.8(249A) apply to IowaCare except as follows:

92.3(1) An application for IowaCare may also be submitted on Comm. 239, IowaCare Application. An applicant who submits an application on another form allowed under 441—76.1(249A) shall also sign Form 470-4194, IowaCare Premium Agreement.

92.3(2) A new application is required for each 12-month certification period.

441—92.4(249A,81GA,ch167) Application processing. Department staff shall process IowaCare applications. The department shall base eligibility decisions primarily on information declared by the applicant. A face-to-face interview is not required.

92.4(1) Verification. Applicants seeking eligibility under 92.2(1)“b” shall provide verification of medical expenses as required under 92.5(5)“b.” Applicants shall not be required to provide verification of income, citizenship, household members, disability, social security number, age, HAWK-I premium, group health insurance, or pregnancy, unless the verification is specifically requested in writing.

a. The department shall notify the person in writing of any further verification requested. The person shall have five working days to supply the requested information. The local office may extend the deadline for a reasonable period when the person is making every effort but is unable to secure the required information or verification from a third party.

b. Failure of the person to supply requested information or refusal by the person to authorize the department to secure the information from other sources shall serve as a basis for denial of an application or cancellation of IowaCare benefits.

92.4(2) Screening for full Medicaid. The department shall screen each application for eligibility under coverage groups listed in 441—75.1(249A). If the applicant is eligible under another coverage group, the IowaCare application shall be considered an application for that coverage group.

92.4(3) Time limit for decision. The department shall make a determination of approval or denial as soon as possible, but no later than three working days after the filing date of the application, unless:

a. One or more conditions listed in 441—subrule 76.3(1), 76.3(3), 76.3(4), or 76.3(6) exist; or

b. The application is being processed for Medicaid eligibility under a coverage group listed in 441—75.1(249A).

441—92.5(249A,81GA,ch167) Determining income eligibility. The department shall determine the income of an applicant’s household as of the date of decision. To be eligible, the household’s income minus allowable deductions shall not exceed 200 percent of the federal poverty level for the household size.

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92.5(1) Household size. The household size shall include the applicant and the applicant's dependent or unborn children and spouse living in the same home, except when a dependent child or spouse has elected to receive supplemental security income under Title XVI of the Social Security Act. A person who is absent from the home shall not be included in the household size, unless the absence is temporary.

a. An applicant's spouse shall not be considered absent from the home when:

(1) The spouse's absence is due solely to a pattern of employment, including active duty in the uniformed services of the United States.

(2) The spouse is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday.

b. The conditions described in 441—paragraph 75.53(4)“b” shall be applied to determine whether a person's absence is temporary.

92.5(2) Self-declaration of income. Applicants shall self-declare the household's future unearned and earned income based on their best estimate.

a. Applicants who receive income on a regular basis shall declare their household's monthly income as described at 92.5(3) and 92.5(4).

b. Applicants who are self-employed, receive their income on an irregular basis, or are not currently employed shall declare their household's anticipated yearly income as described in 92.5(3) and 92.5(4).

92.5(3) Earned income. All earned income as defined in this subrule that is received by a person included in the household size shall be counted except for the earnings of a child who is a full-time student as defined in 441—subparagraphs 75.54(1)“b”(1), (2), and (3). Earned income shall include income in the form of a salary, wages, tips, or profit from self-employment.

a. For income from salary, wages, or tips, earned income shall mean the total gross amount of income irrespective of the expenses of employment.

b. For self-employment income, earned income shall mean the net profit from self-employment, defined as gross income less the costs of producing the income.

92.5(4) Unearned income. Unearned income of all household members shall be counted unless exempted as income by:

a. 441—subrule 75.57(6), paragraph “b,” “c,” “d,” “e,” “f,” “g,” “h,” “i,” “j,” “k,” “l,” “m,” “p,” “q,” “r,” “t,” “v,” “w,” “x,” “y,” “z,” or “aa”; or

b. 441—subrule 75.57(7), paragraph “a,” “b,” “c,” “d,” “e,” “f,” “g,” “h,” “i,” “j,” “k,” “l,” “m,” or “q.”

92.5(5) Deductions. The department shall determine a household's countable income by deducting the following from the household's self-declared income:

a. Twenty percent of the household's self-declared earned income.

b. For women applying under 92.2(1)“b,” medical expenses incurred for a person included in the household size that are unpaid and not subject to payment by a third party. Verification of the unpaid expenses must be provided in order to receive the deduction. The medical expenses that can be deducted are:

(1) Health insurance premiums, deductibles, or coinsurance charges; and

(2) Medical and dental expenses.

92.5(6) Disregard of changes. A person found to be income-eligible upon application or recertification of eligi-

bility shall remain income-eligible for 12 months regardless of any change in income or household size.

441—92.6(249A,81GA,ch167) Effective date. The department shall issue Form 470-4164, IowaCare Medical Card, to persons determined to be eligible for IowaCare benefits.

92.6(1) Certification period. IowaCare eligibility shall be effective on the first day of the month of application or the first day of the month all eligibility requirements are met, whichever is later. The certification period shall continue for 12 consecutive months or, for women and newborns eligible under 92.2(1)“b” or “c,” until 60 days after the birth of the child.

92.6(2) Retroactive eligibility. IowaCare benefits shall also be available for the month preceding the month in which the application is filed to applicants who meet the following conditions:

a. The applicant makes the request for retroactive eligibility at the time of application and before the eligibility determination.

b. The applicant has received Medicaid expansion services from a provider within the Medicaid expansion network during the month for which retroactive eligibility is sought.

c. The applicant would have been eligible for IowaCare in the month for which retroactive eligibility is sought if application had been made in that month.

92.6(3) Care provided before eligibility. No payment shall be made for medical care received before the effective date of eligibility.

441—92.7(249A,81GA,ch167) Financial participation.

In addition to the copayments required by 441—subrule 79.1(13), IowaCare members (with the exception of newborns eligible pursuant to 92.2(1)“c”) shall be assessed a sliding-scale monthly premium. A member shall be responsible for paying the premium for the first four months of a certification period regardless of continued enrollment during the four-month period, and for each month of continued enrollment after the first four months.

92.7(1) Premium amount. The monthly premium amount shall be established for a 12-month period beginning with the first month of eligibility, based on projected monthly income for the 12-month period.

a. The monthly premium amount is based on the household's countable monthly income as a percentage of the federal poverty level for a household of that size. The premium amounts are based on this percentage, as follows:

When the household's income is at or below:	Each member's premium amount is:
10% of federal poverty level	\$0
20% of federal poverty level	\$1
30% of federal poverty level	\$3
40% of federal poverty level	\$4
50% of federal poverty level	\$6
60% of federal poverty level	\$7
70% of federal poverty level	\$9
80% of federal poverty level	\$11
90% of federal poverty level	\$12
100% of federal poverty level	\$14
110% of federal poverty level	\$39
120% of federal poverty level	\$43
130% of federal poverty level	\$47
140% of federal poverty level	\$51
150% of federal poverty level	\$55
160% of federal poverty level	\$59

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When the household's income is at or below:	Each member's premium amount is:
170% of federal poverty level	\$63
180% of federal poverty level	\$67
190% of federal poverty level	\$71
200% of federal poverty level	\$75

b. The listed premium amount is calculated based on the lowest income level in each 10 percent increment for a one-person household. Premiums for households with income at or below 100 percent of the poverty level are 2 percent of the applicable income level; premiums for households with income over 100 percent of the poverty level are 5 percent of the applicable income level. The department will update these amounts annually on April 1 using the latest federal poverty level guidelines.

c. The cost of premiums paid for HAWK-I shall be deducted from the premium assessed according to this subrule.

d. The monthly premium established for a 12-month certification period shall not be increased due to an increase in income or a change in household size.

e. The premium may be reduced prospectively during the 12-month certification period if the member declares a reduction in projected average monthly income or an increase in household size or is granted a hardship exemption.

92.7(2) Billing and payment. Form 470-4165, IowaCare Billing Statement, shall be used for billing and collection.

a. Method of payment. Members shall submit premium payments to the following address: Iowa Medicaid Enterprise Revenue Collection Unit, P.O. Box 10391, Des Moines, Iowa 50306-0391.

b. Due date. When the department notifies the member of the amount of the premiums, the member shall pay any premiums due as follows:

(1) The premium for each month is due the last calendar day of the month the premium is to cover. EXCEPTION: The premiums for the months covered in the initial billing are due the last calendar day of the following month.

(2) If the last calendar day falls on a weekend or a state or federal holiday, payment is due the first working day following the holiday or weekend.

c. Application of payment. The department shall apply premium payments received to the oldest unpaid month forward. When premiums for all months have been paid, the department shall hold any excess and apply it to any months for which eligibility is subsequently established.

92.7(3) Hardship exemption. A member who submits a written statement indicating that payment of the monthly premium will be a financial hardship shall be exempted from premium payment for that month. If the statement is not postmarked by the premium due date, the member shall be obligated to pay the premium.

a. A partial payment postmarked on or before the end of the month for which the premium is due shall be considered a request for a hardship exemption. The exemption shall be granted for the balance owed for that month.

b. If the postmark is illegible, the date that the hardship declaration is initially received by the department or the department's designee shall be considered the date of the request.

92.7(4) Failure to pay premium. If the member fails to pay the assessed premium or to declare a hardship by the date the premium is due, the department shall cancel IowaCare benefits effective the last day of the next calendar month. A member whose IowaCare benefits are canceled due to non-payment of premiums must reapply to establish IowaCare eligibility.

92.7(5) Refund of premium. When a member's IowaCare coverage is canceled due to a circumstance listed in paragraph "a," premiums paid for any period after the cancellation date shall be refunded.

a. The premium obligation is reduced to zero when a member's IowaCare coverage is canceled because the member:

(1) Is determined eligible for medical assistance under 441—subrules 75.1(1) through 75.1(40);

(2) Has access to group health insurance coverage as defined in subrule 92.2(4);

(3) Reaches age 65; or

(4) Dies.

b. The amount of the refund shall be offset by any outstanding premiums owed.

441—92.8(249A,81GA,ch167) Benefits. Under IowaCare, payment will be made only for services and providers as specified in this rule. No payment will be made for any service provided elsewhere or by another provider.

92.8(1) Provider network. Except as provided in 92.8(3), IowaCare members shall have medical assistance only for services provided to the member at:

a. The University of Iowa Hospitals and Clinics; or

b. Broadlawns Medical Center in Des Moines; or

c. A state mental health institute, exclusive of the units providing substance abuse treatment, services to geropsychiatric patients, or treatment for sexually violent predators.

92.8(2) Covered services. Services shall be limited to the services covered by the Iowa Medicaid program pursuant to 441—Chapter 78, 441—79.9(249A), and 441—Chapter 85, Division I. All conditions of service provision shall apply in the same manner as under the regular Iowa Medicaid program and pursuant to 441—Chapter 78, 441—79.3(249A), 441—79.5(249A), 441—79.6(249A), 441—79.8(249A) through 441—79.14(249A), and applicable provider manuals. These conditions include, but are not limited to, prior authorization requirements and exclusions for cosmetic procedures or those otherwise determined not to be required to meet the medical need of the patient.

92.8(3) Obstetric and newborn coverage. IowaCare members who qualify under 92.2(1)"b" or "c" are also eligible for the services specified in paragraph "a" or "b" from the providers specified in paragraph "c" or "d."

a. Covered services for pregnant women shall be limited to:

(1) Inpatient hospital services when the diagnosis-related group (DRG) submitted for payment is between 370 and 384 and the primary or secondary diagnosis code is V22 through V24.9.

(2) Outpatient hospital services when the ambulatory patient group (APG) submitted for payment is 175, 304, 305, 492, 493, or 494 and the primary or secondary diagnosis code is V22 through V24.9.

(3) Services from another provider participating in Medicaid if the claim form reflects that the primary or secondary diagnosis code is V22 through V24.9.

b. Newborns will be eligible while hospitalized and for a period not to exceed 60 days from the date of birth. Newborns who qualify for eligibility in the regular Medicaid program will be changed to that eligibility type and will have all benefits of the regular Medicaid program.

(1) Inpatient hospital services shall be payable when the diagnosis-related group (DRG) submitted for payment is between 385 and 391.7.

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(2) Services provided by a health care provider other than a hospital shall be covered as provided in subrule 92.8(2).

c. For persons who reside in Cedar, Clinton, Iowa, Johnson, Keokuk, Louisa, Muscatine, Scott, or Washington County, the services listed in this subrule are covered only when provided by the University of Iowa Hospitals and Clinics.

d. Persons who do not live in Cedar, Clinton, Iowa, Johnson, Keokuk, Louisa, Muscatine, Scott, or Washington County may obtain the services listed in this subrule from any provider that participates in Iowa Medicaid.

441—92.9(249A,81GA,ch167) Claims. Claims for Medicaid expansion services provided to IowaCare members shall be submitted to the Iowa Medicaid Enterprise, P.O. Box 150001, Des Moines, Iowa 50315, as required by 441—Chapter 80. To facilitate tracking of expenditures, clean claims for IowaCare services shall be submitted to the Iowa Medicaid enterprise within 20 days from ending date of service.

441—92.10(249A,81GA,ch167) Reporting changes.

92.10(1) Reporting requirements. A member shall report any of the following changes no later than ten calendar days after the change takes place:

- a. The member enters a nonmedical institution, including but not limited to a penal institution.
- b. The member abandons Iowa residency.
- c. The member obtains other health insurance coverage.

92.10(2) Untimely report. When a change is not timely reported, any incorrect program expenditures shall be subject to recovery in accordance with 441—92.13(249A,81GA, ch167).

92.10(3) Effective date of change. After assistance has been approved, changes reported during the month that affect the member's eligibility or premium amount shall be effective the first day of the next calendar month unless:

- a. Timely notice of adverse action is required as specified in 441—subrule 7.7(1); or
- b. The certification has expired.

441—92.11(249A,81GA,ch167) Reapplication. A new application is required when a member's 12-month certification period has expired or a member is seeking to regain eligibility after cancellation.

441—92.12(249A,81GA,ch167) Terminating eligibility. IowaCare eligibility shall end when any of the following occur:

1. The certification period ends.
2. The member becomes eligible for a medical assistance coverage group under 441—subrules 75.1(1) through 75.1(40).
3. The member does not pay premiums as required by 441—92.7(249A,81GA,ch167).
4. The member no longer meets the nonfinancial eligibility requirements under 441—92.2(249A,81GA,ch167).
5. The member is found to have been ineligible at the time the eligibility determination was made due to member misrepresentation or member or agency error.
6. The member dies.

441—92.13(249A,81GA,ch167) Recovery. The department shall recover from a member all Medicaid funds incorrectly expended on behalf of the member in accordance with 441—76.12(249A).

92.13(1) The department shall recover Medicaid funds expended on behalf of a member from the member's estate in accordance with 441—76.12(249A).

92.13(2) Any funds recovered from third parties, including Medicare, by a provider other than a state mental health institute shall be submitted to the Iowa Medicaid enterprise, and an adjustment shall be made to a previously submitted claim.

441—92.14(249A,81GA,ch167) Discontinuance of the program. IowaCare is operated statewide and is funded on a fiscal-year basis (from July through June). When funds are expected to be expended before the end of the fiscal year, enrollment of new members into the program will be discontinued or limited to a reduced scope of services until funding is received for the next fiscal year.

92.14(1) Suspension of enrollment. To ensure equitable treatment, applications shall be approved on a first-come, first-served basis and enrollment will be suspended when the likely costs of caring for those already enrolled will exhaust the available funding during the year. "First-come, first-served" status is determined by the date the application is approved for eligibility and entered into the computer system.

92.14(2) Enrollment for limited services. Eligibility or payment for services received cannot be approved beyond the amount of funds available. Because funds are limited, applications may be approved for a reduced scope of services.

441—92.15(249A,81GA,ch167) Right to appeal. Decisions and actions by the department regarding eligibility or services provided under this chapter may be appealed pursuant to 441—Chapter 7. However, households will not be entitled to an appeal hearing if the sole basis for denying or limiting services is due to discontinuance or limitation of the program pursuant to 441—92.14(249A,81GA,ch167).

These rules are intended to implement 2005 Iowa Acts, chapter 167, divisions I and II.

[Filed 12/14/05, effective 3/1/06]

[Published 1/4/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/06.

ARC 4780B

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 89A.3(1) and 89A.13(6), the Elevator Safety Board hereby amends Chapter 75, "Fees," Iowa Administrative Code.

The amendment updates fees charged for the issuance of alteration permits. The principal reasons for adoption of this amendment are to implement legislative intent for Iowa Code chapter 89A, to reflect economic changes since this rule was last amended, and to provide adequate funding for enforcement of Iowa Code chapter 89A.

This amendment does not contain a waiver provision as waivers can be sought through the Elevator Safety Board.

Notice of Intended Action was published in the October 12, 2005, Iowa Administrative Bulletin as **ARC 4566B**. No public comments regarding the Notice of Intended Action were received. The Elevator Safety Board approved the changes on December 8, 2005, during an open meeting of the

LABOR SERVICES DIVISION[875](cont'd)

Board. The adopted amendment is identical to the amendment published under Notice.

This amendment is intended to implement Iowa Code chapter 89A.

This amendment will become effective February 8, 2006. The following amendment is adopted.

Amend rule 875—75.2(89A) as follows:

875—75.2(89A) Alterations. Alteration inspection and permit fees shall be as follows: ~~up to and including \$20,000 of valuation—\$90; over \$20,000 of valuation—\$90 plus \$1 for each \$1,000 or fraction thereof over \$20,000 of valuation~~ *\$200 for alterations up to and including 25 percent; \$400 for alterations of 26 percent up to and including 50 percent; and the fee schedule for new installations shall apply for alterations over 50 percent. The alterations table in rule 875—76.7(89A) shall be used to determine the change percentage.* These fees include initial inspection and the alteration permit fees. If the alteration does not comply at the time of an acceptance inspection and has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of \$200 for each additional inspection. The alteration inspection and permit fees shall be remitted to the division of labor services when the application is filed.

Consultative inspections may be performed at the discretion of the labor commissioner for a fee of \$100 per hour, including travel time, with a minimum charge of \$200.

[Filed 12/9/05, effective 2/8/06]
[Published 1/4/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/06.

ARC 4782B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Behavioral Science Examiners hereby amends Chapter 31, "Licensure of Marital and Family Therapists and Mental Health Counselors," Chapter 33, "Discipline for Marital and Family Therapists and Mental Health Counselors," and Chapter 34, "Fees," Iowa Administrative Code.

These amendments rescind rule 645—34.1(147,154D) and adopt a new rule in lieu thereof. The new rule raises fees to fund changes to an antiquated software system and provide other services for licensees such as online renewals. Prior to publication of the Notice of Intended Action, the Board pre-noticed these amendments to provide licensees and the public an opportunity to comment on the proposed amendments. The Board did not receive any comments during the prenotice period. In addition, the amendments include a new paragraph "c" in subrule 31.10(3) to allow licensees who have recently renewed their licenses to wait until the next renewal cycle to renew.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 12, 2005, as **ARC 4552B**. A public hearing was held on November 3, 2005, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. One comment was received noting

that in the discipline chapter there is a reference to lapsed license status that no longer exists. The Board corrected the discipline rules by removing the reference to a lapsed license.

The amendments were adopted by the Board of Behavioral Science Examiners on December 9, 2005.

These amendments will become effective February 8, 2006.

These amendments are intended to implement Iowa Code chapters 21, 147, 154D and 272C.

The following amendments are adopted.

ITEM 1. Adopt new paragraph **31.10(3)"c"** as follows:

c. An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

ITEM 2. Amend subrule 33.2(26) as follows:

33.2(26) Representing oneself as a licensed marital and family therapist or mental health counselor when one's license has been suspended or revoked, or when one's license is ~~lapsed or has been placed~~ on inactive status.

ITEM 3. Rescind rule 645—34.1(147,154D) and adopt the following new rule in lieu thereof:

645—34.1(147,154D) License fees. All fees are nonrefundable.

34.1(1) Licensure fee for license to practice marital and family therapy or mental health counseling is \$120.

34.1(2) Biennial license renewal fee for each biennium is \$120.

34.1(3) Late fee for failure to renew before expiration is \$60.

34.1(4) Reactivation fee is \$180.

34.1(5) Duplicate or reissued license certificate or wallet card fee is \$20.

34.1(6) Verification of license fee is \$20.

34.1(7) Returned check fee is \$25.

34.1(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 154D and 272C.

[Filed 12/9/05, effective 2/8/06]
[Published 1/4/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/06.

ARC 4776B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Dietetic Examiners hereby amends Chapter 81, "Licensure of Dietitians," Chapter 82, "Continuing Education for Dietitians," Chapter 83, "Discipline for Dietitians," and Chapter 84, "Fees," Iowa Administrative Code.

These amendments rescind rule 645—84.1(147,152A) and adopt a new rule in lieu thereof. The new rule raises fees to fund changes to an antiquated software system and provide other services for licensees such as online renewals. Prior to the publication of the Notice of Intended Action, the Board pre-noticed these amendments to provide licensees and the public an opportunity to comment on the proposed amend-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ments. The Board did not receive any comments during the prenotice period.

In addition, the amendments adopt new subrule 81.9(9) to allow a licensee who recently reactivated the license prior to the start of a new renewal cycle to renew at the next renewal cycle, remove references to Board approval in the continuing education chapter, remove the reference to approval by the Commission on Dietetic Registration of the American Dietetic Association, rescind subparagraph (5) in paragraph 82.3(2)"d" regarding other professional education activities, and add in subrule 82.3(2) the requirement to provide a narrative describing other professional development activities.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 12, 2005, as **ARC 4556B**. A public hearing was held on November 3, 2005, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. One comment was received noting that in the discipline chapter there is a reference to lapsed license status that no longer exists. The Board corrected the discipline rule by removing the reference to "lapsed license." Subrule 83.2(26) now reads as follows:

"83.2(26) Representing oneself as a licensed dietitian when one's license has been suspended or revoked, or when one's license is on inactive status."

These amendments were adopted by the Board of Dietetic Examiners on December 2, 2005.

These amendments will become effective February 8, 2006.

These amendments are intended to implement Iowa Code chapters 21, 147, 152A and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [81.9(9), 82.1, 82.3(2)"a," "b," and "d," 82.4(2)"d," 83.2(26), 84.1] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 4556B**, IAB 10/12/05.

[Filed 12/2/05, effective 2/8/06]
[Published 1/4/06]

[For replacement pages for IAC, see IAC Supplement 1/4/06.]

ARC 4787B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners amends Chapter 100, "Practice of Funeral Directors, Funeral Establishments, and Cremation Establishments," and Chapter 101, "Licensure of Funeral Directors," Iowa Administrative Code.

These amendments redefine "authorized person," change subrule 101.10(2) to delete the word "initial," revise student practicum requirements, and update requirements regarding preparation of human remains. The Board prenoticed rules to revise the definition of "authorized person" to provide licensees and the public an opportunity to comment. The Board did not receive any comments during this prenotice period.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 28, 2005, as **ARC 4543B**. A public hearing was held on October 18, 2005, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received.

The following changes have been made to the Notice. In Item 1, in the definition of "authorized person," the first sentence of numbered paragraphs "2" and "4" to "6," the commas have been removed because the relative clause is essential to express the intended meaning. In Item 6, the proposed amendment to subrule 101.14(2) has not been adopted because rule 645—101.14(272C) has been rescinded and a new rule adopted in its place (see **ARC 4788B** herein).

The amendments were adopted by the Board of Mortuary Science Examiners on December 8, 2005.

These amendments will become effective February 8, 2006.

These amendments are intended to implement Iowa Code chapters 21, 147, 156 and 272C.

The following amendments are adopted.

ITEM 1. Amend **645—100.1(156)** by rescinding the definition of "authorized person" and adopting the following **new** definition in lieu thereof:

"Authorized person" means that person or persons upon whom a funeral director may reasonably rely when making funeral arrangements including, but not limited to, embalming, cremation, funeral services, and the disposition of human remains. In the absence of a contrary court order, a funeral director may reasonably rely upon any available member of the following classes of persons, in the order of priority listed:

1. The spouse of the decedent if not legally separated from the decedent.
2. The decedent's surviving adult children. If there is more than one adult child, any adult child who can confirm in writing the notification of all other adult children may serve as the authorizing agent, unless the funeral director or crematory authority receives any objection from another adult child. Alternatively, a majority of the surviving adult children of the decedent whose whereabouts are reasonably ascertainable.
3. The surviving parents of the decedent whose whereabouts are reasonably ascertainable.
4. The decedent's surviving adult grandchildren. If there is more than one adult grandchild, any adult grandchild who can confirm in writing the notification of all other adult grandchildren may serve as the authorizing agent, unless the funeral director or crematory authority receives any objection from another adult grandchild. Alternatively, a majority of the surviving adult grandchildren of the decedent whose whereabouts are reasonably ascertainable.
5. An adult sibling of the decedent. If there is more than one adult sibling, any adult sibling who can confirm in writing the notification of all other adult siblings may serve as the authorizing agent, unless the funeral director or crematory authority receives any objection from another adult sibling. Alternatively, a majority of the surviving adult siblings of the decedent whose whereabouts are reasonably ascertainable.
6. A grandparent of the decedent. If there is more than one grandparent, any grandparent who can confirm in writing the notification of all other grandparents may serve as the authorizing agent, unless the funeral director or crematory authority receives any objection from another grandparent.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Alternatively, a majority of the surviving grandparents of the decedent whose whereabouts are reasonably ascertainable.

7. Other adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession.

8. The county medical examiner, if responsible for the decedent's remains.

A funeral director may await court order before finalizing the funeral arrangements if the funeral director is aware of a dispute between the authorized person or persons who would be in a priority position under the definition of "authorized person" in this rule and the executor named in the decedent's will or a personal representative appointed by a court, or is aware of a dispute among authorized persons within the same priority classification.

ITEM 2. Amend subrule **100.6(3)**, paragraph "a," as follows:

a. Pack *or otherwise secure* all body orifices with material which will absorb and retain all secretions.

ITEM 3. Amend subrule **100.6(4)**, paragraph "c," as follows:

c. If viewing of the unembalmed human remains is requested, the human remains shall be topically disinfected and all body orifices shall be packed *or otherwise secured* with material which will absorb and retain all secretions. No public viewing will be allowed of an unembalmed decedent who has died of a reportable communicable disease, but private viewing is permissible at the discretion of the funeral director.

ITEM 4. Rescind rule 645—101.6(156) and adopt the following **new** rule in lieu thereof:

645—101.6(156) Student practicum.

101.6(1) A student may participate in a student practicum in a licensed funeral establishment in Iowa if the student's school is accredited by and in good standing with the American Board of Funeral Service Education (ABFSE). The student practicum must meet the requirements of the ABFSE.

101.6(2) Students serving a practicum in Iowa shall be under the direct physical supervision of a funeral director who meets the following requirements:

a. Has completed the Iowa preceptor training course within the immediately preceding five years.

b. Has not had any formal disciplinary action within the past five years.

c. Is affiliated with a funeral establishment that has not had formal disciplinary action within the past five years.

ITEM 5. Amend subrule 101.10(2) as follows:

101.10(2) An individual who was issued an ~~initial~~ *a* license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal.

[Filed 12/9/05, effective 2/8/06]

[Published 1/4/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/06.

ARC 4788B

**PROFESSIONAL LICENSURE
DIVISION[645]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners hereby amends Chapter 101, "Licensure of Funeral Directors," Chapter 103, "Disciplinary Proceedings," and Chapter 105, "Fees," Iowa Administrative Code.

These amendments revise fees for licensure. The revised fees will fund changes to an antiquated software system and provide other services for licensees, such as online renewals. The Board prenoticed the revised fees to provide licensees and the public an opportunity to comment. The Board did not receive any comments during the prenotice period.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 28, 2005, as **ARC 4542B**. A public hearing was held on October 18, 2005, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. Comments were received indicating that the student practicum fee was left out of the fee schedule and the description for the state law and rules examination needed to be changed to clarify that it was the Iowa examination. The Board removed the student practicum fee because the process has been changed to monitor those students. One public comment was received regarding two areas of the discipline rules where there are references to "lapsed license" and requesting that they be removed since there is no longer a lapsed license status. The Board made changes in response to comments received. The Board also received a comment that there was duplication in the administrative rules in 645—101.14(272C), 645—101.15(17A, 147,272C), 645—101.16(272C), and 645—101.17(17A, 147,272C). The Board modified these rules to remove duplication and enhance rule clarity.

The amendments were adopted by the Board of Mortuary Science Examiners on December 8, 2005.

These amendments will become effective February 8, 2006.

These amendments are intended to implement Iowa Code chapters 21, 147, 156 and 272C.

The following amendments are adopted.

ITEM 1. Rescind rule 645—101.14(272C) and adopt the following **new** rule in lieu thereof:

645—101.14(272C) Inactive funeral establishment license or cremation establishment license or both establishment licenses.

101.14(1) If the renewal application and fee are not post-marked within 30 days after the license expiration date, the funeral establishment license or cremation establishment license is inactive. To reactivate a funeral establishment license or a cremation establishment license, the reactivation application and fee shall be submitted to the board office.

101.14(2) A funeral establishment or a cremation establishment that has not renewed the funeral establishment license or cremation establishment license within the required time frame will have an inactive license and shall not provide mortuary science services until the license is reactivated.

ITEM 2. Rescind rule 645—101.15(17A,147,272C) and adopt the following **new** rule in lieu thereof:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

645—101.15(17A,147,272C) License reinstatement. For a funeral or cremation establishment license that has been revoked, suspended, or voluntarily surrendered, the owner must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 101.14(272C) prior to offering mortuary science services from that establishment in this state.

ITEM 3. Rescind and reserve rules **645—101.16(272C)** and **645—101.17(17A,147,272C)**.

ITEM 4. Amend subrule **103.3(3)**, paragraph “g,” as follows:

g. Representing oneself as a funeral director when one’s license has been suspended, revoked, or surrendered, or when one’s license is ~~lapsed or has been placed~~ on inactive status.

ITEM 5. Amend subrule **103.3(5)**, paragraph “a,” as follows:

a. Practicing mortuary science when one’s license has been suspended, revoked, or surrendered, or when one’s license is ~~lapsed or has been placed~~ on inactive status.

ITEM 6. Rescind rule 645—105.1(147,156) and adopt the following **new** rule in lieu thereof:

645—105.1(147,156) License fees. All fees are nonrefundable.

105.1(1) Licensure fee for license to practice funeral directing is \$120.

105.1(2) Biennial funeral director’s license renewal fee for each biennium is \$120.

105.1(3) Late fee for failure to renew before expiration is \$60.

105.1(4) Reactivation fee for a funeral director is \$180 and for a funeral establishment or cremation establishment is \$150.

105.1(5) Duplicate or reissued license certificate or wallet card fee is \$20.

105.1(6) Verification of license fee is \$20.

105.1(7) Returned check fee is \$25.

105.1(8) Disciplinary hearing fee is a maximum of \$75.

105.1(9) Funeral establishment or cremation establishment fee is \$90.

105.1(10) Three-year renewal fee of funeral establishment or cremation establishment is \$90.

105.1(11) Iowa law and rules examination fee is \$50, and each retake of the examination is \$50.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 156 and 272C.

[Filed 12/9/05, effective 2/8/06]

[Published 1/4/06]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/06.

ARC 4784B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for Massage Therapy amends Chapter 131, “Licensure for Massage Therapists,” Chapter 133, “Continuing Education for Massage Therapists,” Chapter 134, “Discipline of Massage Therapists,” and Chapter 135, “Fees,” Iowa Administrative Code.

These amendments adopt changes to allow a licensee who renews within six months of a new licensing cycle to wait until the subsequent renewal period, require proof of licensure from every state in which an applicant was previously licensed, and adopt a new fees rule that increases fees to fund changes to an antiquated software system and provide other services for licensees such as online renewals. The Board prenoticed the fees rule to provide licensees and the public an opportunity to comment on the proposed rule. The Board did not receive any comments during this prenotice period.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 28, 2005, as **ARC 4524B**. A public hearing was held on October 18, 2005, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. Comments received noted that subrule 134.2(5) contains a reference to lapsed licenses that should be removed because there is no longer a lapsed license status. The Board corrected the wording of the subrule to remove the reference to a lapsed license. Comment was also received which noted that, in the continuing education chapter, rule 645—133.3(152C,272C) requires instructor criteria that affect all continuing education offerings but that are appropriate only for courses listed in subrule 133.3(3), paragraph “a.” The Board had originally intended for the instructor requirements to apply only to paragraph “a” of subrule 133.3(3) and has modified the rule in response to the comment.

These amendments were adopted by the Board of Examiners for Massage Therapy on December 6, 2005.

These amendments will become effective February 8, 2006.

These amendments are intended to implement Iowa Code chapters 21, 147, 152C and 272C.

The following amendments are adopted.

ITEM 1. Adopt **new** subrule 131.2(10) as follows:

131.2(10) The applicant shall provide verification of license(s) from every state in which the applicant has been licensed as a massage therapist, sent directly from the state(s) to the board office.

ITEM 2. Amend subrule 131.8(2) as follows:

131.8(2) An individual who was issued an ~~initial~~ *a* license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses.

ITEM 3. Amend subrule **131.14(3)**, paragraph “a,” subparagraph (2), as follows:

(2) Verification of completion of 12 hours of continuing education within two years of application for reactivation *or, for a licensee whose license expires August 15, 2006, or*

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

thereafter, verification of completion of 24 hours of continuing education within two years of application.

ITEM 4. Amend subrule **131.14(3)**, paragraph “**b**,” subparagraph (2), as follows:

(2) Verification of completion of 12 hours of continuing education within two years of application for reactivation or, for a licensee whose license expires August 15, 2006, or thereafter, verification of completion of 24 hours of continuing education within two years of application; and

ITEM 5. Amend subrule **133.3(1)**, paragraph “**c**,” as follows:

c. ~~Is sponsored by a local, state, national or international professional organization or chapter of massage/bodywork therapy, or a professional hands on school of massage/bodywork therapy that meets or exceeds the standards set forth in 645—Chapter 132. The presenter must be a massage/bodywork therapist with a minimum of five years of clinical experience in massage/bodywork therapy. Individuals conducting the continuing education activity must~~ *Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;*

ITEM 6. Amend subrule **133.3(3)**, paragraph “**a**,” as follows:

a. At least 12 hours shall be obtained by attending programs which pertain to massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including, but not limited to, myofascial release, craniosacral, neuromuscular therapy, stretching techniques, hands-on hydrotherapy techniques, structural integration, medical massage techniques, chair massage, infant massage, prenatal massage, sports massage, shiatsu, acupressure, tui na, manual lymphatic drainage, hands-on Eastern techniques, and zero balancing. *The course shall be sponsored by a local, state, national or international professional organization or chapter of massage/bodywork therapy or a professional hands-on school of massage/bodywork therapy that meets or exceeds the standards set forth in 645—Chapter 132. The presenter must be a massage/bodywork therapist with a minimum of five years of clinical experience in massage/bodywork therapy.*

ITEM 7. Amend subrule 134.2(25) as follows:

134.2(25) Representing oneself as a massage therapist when one’s license has been suspended or revoked, or when one’s license is lapsed or has been placed on inactive status.

ITEM 8. Rescind rule 645—135.1(147) and adopt the following **new** rule in lieu thereof:

645—135.1(147) License fees. All fees are nonrefundable.

135.1(1) License fee for license to practice massage therapy is \$120.

135.1(2) Biennial license renewal fee for each biennium is \$60.

135.1(3) Temporary license fee for up to one year is \$120.

135.1(4) Late fee for failure to renew before expiration is \$60.

135.1(5) Reactivation fee is \$120.

135.1(6) Duplicate or reissued license certificate or wallet card fee is \$20.

135.1(7) Verification of license fee is \$20.

135.1(8) Returned check fee is \$25.

135.1(9) Disciplinary hearing fee is a maximum of \$75.

135.1(10) Initial application fee for approval of massage therapy education curriculum is \$120.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

[Filed 12/9/05, effective 2/8/06]

[Published 1/4/06]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/06.

ARC 4795B

REGENTS BOARD[681]

Adopted and Filed

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby adopts an amendment to Chapter 3, “Personnel Administration,” Iowa Administrative Code.

This amendment allows nonorganized (confidential and supervisory) employees in the Regent Merit System to carry over 40 hours of emergency care leave. This change was negotiated for AFSCME-covered staff in the Regent Merit System effective July 1, 2005. The amendment will allow all employees of the Regent Merit System to have the same benefit.

Notice of Intended Action was published in IAB, Vol. XXVIII, No. 8, p. 577 on October 12, 2005, as **ARC 4565B**. A comment period was established and ended November 1, 2005. No comments were received. This amendment is identical to that published under Notice.

This amendment was adopted at the December 6, 2005, meeting of the Board of Regents.

This amendment is intended to implement Iowa Code chapter 8A.

This amendment will become effective on February 8, 2006.

The following amendment is adopted.

Amend rule 681—3.148(8A) as follows:

681—3.148(8A) Emergency and funeral leave. An employing department will, when satisfied by evidence presented, grant an employee time off with pay:

1. Not to exceed three days for each occurrence in the case of death in the employee’s immediate family;

2. Not to exceed one day for each occurrence for service as a pallbearer at the funeral of a person not a member of the employee’s immediate family; and

3. Not to exceed five days a year for the temporary emergency care of ill or injured members of the employee’s immediate family for the time necessary to permit the employee to make other arrangements. *Employees may carry over up to 40 hours of unused emergency care leave to the next year, for a maximum utilization of 80 hours in the next year.*

All such time off will be charged to the employee’s sick leave and will not be granted in excess of the employee’s accrued leave. For the purpose of this rule, immediate family is defined as the employee’s spouse, children, grandchildren, foster children, stepchildren, legal wards, parents, grandparents, foster parents, stepparents, brothers, foster brothers, stepbrothers, sons-in-law, brothers-in-law, sisters, foster sisters, stepsisters, daughters-in-law, sisters-in-law, aunts, uncles, nieces, nephews, first cousins, corresponding relatives

REGENTS BOARD[681](cont'd)

of the employee's spouse, and other persons who are members of the employee's household.

[Filed 12/14/05, effective 2/8/06]

[Published 1/4/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/06.

ARC 4793B

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10, 307.12, 321.449 and 321.450, the Department of Transportation, on December 13, 2005, adopted amendments to Chapter 520, "Regulations Applicable to Carriers," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the October 26, 2005, Iowa Administrative Bulletin as **ARC 4604B**.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR), Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180. To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the FR to allow a period for public comment, and, after adoption, the final regulations are again published in the FR. Each year a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year. Although revised editions of 49 CFR are usually dated October or November, the publication is not actually available in Iowa for several months after that date.

The amendments to the FMCSR and the HMR that have become final and effective since the 2004 edition of the CFR are listed in the information below. The parts affected are followed by FR citations.

Amendments to the FMCSR and Federal HMR

Parts 171 and 173 (FR Vol. 69, No. 190, Page 58841, 10-01-04)

This final rule corrects errors in a final rule published in the FR on September 13, 2004, that amended requirements in the HMR pertaining to the transportation of radioactive materials.

Parts 171, 172 and 173 (FR Vol. 69, No. 213, Page 64462, 11-04-04)

This final rule amends the HMR to improve hazard communication for hazardous materials transported in commerce.

Parts 171, 173, 177, and 178 (FR Vol. 69, No. 235, Page 70902, 12-08-04)

This rule delays the effective date of the final rule published on October 30, 2003, clarifying the applicability of the HMR to loading, unloading and storage operations, from January 1, 2005, until June 1, 2005.

Parts 171, 172, 173, 178 and 180 (FR Vol. 69, No. 243, Page 76044, 12-20-04)

In this final rule, the Research and Special Programs Administration is amending the HMR to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packaging groups, special provisions, packaging authorizations, air transport quantity limitations and vessel stowage requirements. These revisions are necessary to facilitate the transport of hazardous materials in international commerce.

Parts 171, 173, and 177 (FR Vol. 70, No. 14, Page 3302, 01-24-05)

This final rule amends the HMR by incorporating into the regulations the provisions of certain widely used exemptions which have established a history of safety and which may be converted into regulations for general use. Minor revisions are also made to the requirements for use of packaging authorized under exemptions. The revisions provide wider access to the benefits of the provisions granted in these exemptions and eliminate the need for the current exemption holders to reapply for renewal of the exemption.

Parts 390, 392 and 393 (FR Vol. 70, No. 156, Page 48008, 08-15-05)

This final rule amends Part 393 of the FMCSR, Parts and Accessories Necessary for Safe Operation. The amendments are intended to remove obsolete and redundant regulations; respond to several petitions for rule making; provide improved definitions of vehicle types, systems, and components; resolve inconsistencies between Part 393 and the National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standards (49 CFR Part 571).

Parts 385, 390 and 395 (FR Vol. 70, No. 164, Page 49979, 08-25-05)

This final rule concerns hours-of-service for commercial motor vehicle drivers. The rule addresses requirements for driving, duty, and off-duty time; a recovery period; sleeper berth; and new requirements for short-haul drivers.

The other amendment to this chapter states that operators of vehicles for hire, designed to transport 7 or more persons, but fewer than 16, including the driver, are not exempt from logbook requirements afforded the 100-air-mile radius driver under 49 CFR 395.1(e).

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

One change was made from the Notice of Intended Action. In Item 3, the words "for hire" were added to the new sentence for clarification purposes.

These amendments are intended to implement Iowa Code chapter 321.

TRANSPORTATION DEPARTMENT[761](cont'd)

These amendments will become effective February 8, 2006.

Rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, 2004 2005).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, 2004 2005).

ITEM 3. Amend paragraph **520.1(2)“c”** as follows:

c. Operators of vehicles for hire, designed to transport 7 or more persons, but fewer than 16, including the driver, must comply with 49 CFR Part 395 of the Federal Motor Carrier Safety Regulations. *In addition, operators of vehicles for hire designed to transport 7 or more persons, but fewer than 16, including the driver, are not exempt from logbook requirements afforded the 100-air-mile radius driver under 49 CFR 395.1(e).* However, the provisions of 49 CFR Part 395 shall not apply to vehicles offered to the public for hire that are used principally in intracity operation and are regulated by local authorities.

[Filed 12/13/05, effective 2/8/06]

[Published 1/4/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/06.

ARC 4808B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on December 14, 2005, adopted amendments to Chapter 710, “Airport Improvement Program,” Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the November 9, 2005, Iowa Administrative Bulletin as **ARC 4610B**.

These amendments relate to the administration of the Airport Improvement Program. The amendments:

- Move language under correct heading.
- Correct contact information.
- Clarify language for readability and understanding and to better describe the process for federal preapplications.
- Clarify language for readability, understanding, and streamlining the application process for the state Airport Improvement Program.
- Add primary commercial service airports to eligible applicants.
- Remove items from the rule that are included in agreements.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapters 328, 329 and 330.

These amendments will become effective February 8, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [710.1, 710.3 to 710.5] is being omitted. These amendments are identical to those published under Notice as **ARC 4610B**, IAB 11/9/05.

[Filed 12/14/05, effective 2/8/06]

[Published 1/4/06]

[For replacement pages for IAC, see IAC Supplement 1/4/06.]

ARC 4807B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on December 14, 2005, adopted amendments to Chapter 717, “General Aviation Airport Vertical Infrastructure Program,” Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the November 9, 2005, Iowa Administrative Bulletin as **ARC 4611B**.

These amendments relate to the administration of the General Aviation Airport Vertical Infrastructure Program. The amendments:

- Delete a definition and correct a Code citation to a definition.
- Correct contact information.
- Change the state level of participation, remove the funding cap and clarify project priorities.
- Remove items that are not needed.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 328.

These amendments will become effective February 8, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [717.2 to 717.4, 717.7, 717.8, 717.10] is being omitted. These amendments are identical to those published under Notice as **ARC 4611B**, IAB 11/9/05.

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[For replacement pages for IAC, see IAC Supplement 1/4/06.]

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